

## CITY COUNCIL AGENDA January 11, 1999

**NOTICE TO READERS:** City Council meeting packets are prepared several days prior to the meetings. Timely action and short discussion on agenda items is reflective of Council's prior review of each issue with time, thought and analysis given.

Members of the audience are invited to speak at the Council meeting. Citizen Communication (item 5) and Citizen Presentations (item 12) are reserved for comments on items not contained on the printed agenda.

1. Pledge of Allegiance
2. Roll Call
3. Consideration of Minutes of Preceding Meetings
4. Presentations
  - A. Presentation by Burns & McDonnell Engineers 100 Year Anniversary
  - B. Board and Commission Member Recognition
5. Citizen Communication (5 minutes or Less in Length)
6. Report of City Officials
  - A. City Manager's Report
7. City Council Comments

**The "Consent Agenda" is a group of routine matters to be acted on with a single motion and vote. The Mayor will ask if any citizen wishes to have an item discussed. Citizens then may request that the subject item be removed from the Consent Agenda for discussion separately.**

8. Consent Agenda
  - A. Legacy Ridge Restaurant Lease Agreement Amendment raising the lease payments for 1999 and 2000 by 10% each year
  - B. Councillor's Bill No. 82 on second reading re Community Development Block Grant funds of \$663,000 to be appropriated into 1998 budget (Allen-Merkel)
9. Appointments and Resignations  
None
10. Public Hearings and Other New Business
  - A. Intergovernmental Agreement with City of Arvada
  - B. Councillor's Bill No. 1 re Animal Control Amendments re Spay/Neuter
  - C. Public Hearing re Comprehensive Land Use Plan Amendments
  - D. Councillor's Bill No. 2 re Comprehensive Land Use Plan Amendments
  - E. Councillor's Bill No. 3 re Cost Recoveries for 101<sup>st</sup>/100<sup>th</sup> Avenue Extension
  - F. Bond Counsel Fees for Selected Projects
  - G. Councillor's Bill No. 4 re Supplemental Appropriation re American Multi-Cinema Maintenance Services
  - H. 1999 Standley Lake Recreation Fee Structure
  - I. Resolution No. 1 re JeffCo Grant re City Park Phase III Ballfields
  - J. Ketner Dam Outlet Pipe Reconstruction to Insituform Plains Inc for \$62,372
  - K. Councillor's Bill No. 5 re Merger of TCI/AT&T approval by the City

11. Old Business and Passage of Ordinances on Second Reading  
None
12. Citizen Presentations (5 Minutes + in Length) & Miscellaneous Business
  - A. City Council
  - B. Request for Executive Session
    1. Promenade Update/Real Estate Acquisition
    2. Westminster Mall Renovations Negotiations
13. Adjournment

### **GENERAL PUBLIC HEARING PROCEDURES ON LAND USE MATTERS**

The meeting shall be chaired by the Mayor or designated alternate. The hearing shall be conducted to provide for a reasonable opportunity for all interested parties to express themselves, as long as the testimony or evidence being given is reasonably related to the purpose of the public hearing. The Chair has the authority to limit debate to a reasonable length of time to be equal for both positions.

- A. Any person speaking may be questioned by a member of Council or by appropriate members of City Staff.
- B. The Chair shall rule upon all disputed matters of procedure, unless, on motion duly made, the Chair is overruled by a majority vote of Councillors present.
- C. The ordinary rules of evidence shall not apply, and Council may receive petitions, exhibits and other relevant documents without formal identification or introduction.
- D. When the number of persons wishing to speak threatens to unduly prolong the hearing, the Council may establish a time limit upon each speaker.
- E. City Staff enters A copy of public notice as published in newspaper; all application documents for the proposed project and a copy of any other written documents that are an appropriate part of the public hearing record;
- F. The property owner or representative(s) present slides and describe the nature of the request (maximum of 10 minutes);
- G. Staff presents any additional clarification necessary and states the Planning Commission recommendation;
- H. All testimony is received from the audience, in support, in opposition or asking questions. All questions will be directed through the Chair who will then direct the appropriate person to respond.
- I. Final comments/rebuttal received from property owner;
- J. Final comments from City Staff and Staff recommendation.
- K. Public hearing is closed.
- L. If final action is not to be taken on the same evening as the public hearing, the Chair will advise the audience when the matter will be considered. Councillors not present at the public hearing will be allowed to vote on the matter only if they listen to the tape recording of the public hearing prior to voting.

CITY OF WESTMINSTER, COLORADO  
MINUTES OF THE CITY COUNCIL MEETING  
HELD ON MONDAY, JANUARY 11, 1999 AT 7:00 P.M.

PLEDGE OF ALLEGIANCE:

The Mayor led Council, Staff and the audience in the Pledge of Allegiance.

ROLL CALL:

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Atchison, Dixon, Scott and Smith. Also present were William Christopher, City Manager; Martin McCullough, City Attorney; and Michele Kelley, City Clerk. Absent was Councillor Allen.

CONSIDERATION OF MINUTES:

A motion was made by Atchison and seconded by Merkel to accept the minutes of the meeting of December 21, 1998 with no additions or corrections. The motion carried unanimously.

PRESENTATIONS:

Paul Fisher and Dennis Whitney of Burns & McDonnell presented the Mayor with a plaque commemorating Burns & McDonnell's 100 years of operation.

The Mayor and all Councillors presented certificates of appreciation for dedicated service on the various Boards and Commissions to Vicki Atkins, Carmen Carrillo, High Frasier, Gregg Greenstein, Joe Sloan, Steve Wagner, Suzi Walker and Dori Walter.

CITY MANAGERS REPORT:

The City Manager stated that there would not be a Study Session on Monday, January 18<sup>th</sup> since this was a holiday, and the Study Session would be held on Tuesday, January 19<sup>th</sup> at 7 PM.

CITY COUNCIL COMMENTS:

Councillor Dixon stated that CDOT is conducting a meeting to discuss closing Interstate 25 to hazardous materials. The next meeting will be held on Wednesday, January 13<sup>th</sup>, 1998. CDOT will be taking comments thru January 21<sup>st</sup>.

Councillor Smith commented on the Christmas lights and thanked Parks and Recreation for the great display again this year.

CONSENT AGENDA:

The following items were considered as part of the consent agenda: Legacy Ridge Restaurant Lease Agreement Amendment authorizing the City Manager to sign an amendment to the lease with Legacy Grill LLC to increase the lease payments for Legacy Grill for 1999 to \$2,750 and 2000 to \$3,000 and establish the lease payment schedule for the Heritage at Westmoor Golf Course Restaurant from 1999 through December 31, 2001 and Councillor's Bill No. 82 on second reading re Community Development Block Grant funds of \$663,000 to be appropriated into 1998 budget.

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The Mayor asked if there was any member of Council or anyone from the audience who would like to have any of the consent agenda items removed for discussion purposes or separate vote. There was no request.

A motion was made by Scott and seconded by Atchison to adopt the Consent Agenda items as presented. The motion carried unanimously.

INTERGOVERNMENTAL AGREEMENT WITH ARVADA:

A motion was made by Atchison and seconded by Merkel to approve the Intergovernmental Agreement between the City of Westminster and the City of Arvada and authorize the appropriate City officials to execute the agreement.

The following people addressed Council regarding this intergovernmental agreement: Tim Eaton, Northwest Metro Chamber of Commerce representative; Dick Sug, a Golden Resident; Brian Zehnder, 97007 Alkire Street also representing Jean Woodis, 9797 Alkire Street;; Dallas Lack, Westmoor Business Park land owner, Steve Smith, Westminster property owner.

A motion was made by Atchison and seconded by Smith to table action on this matter until the January 25<sup>th</sup> Council meeting. The motion to table carried unanimously.

COUNCILLOR'S BILL NO. 1 - ANIMAL CONTROL AMENDMENTS:

A motion was made by Smith and seconded by Merkel to pass Councillor's Bill No. 1 on first reading amending the Westminster Municipal Code, Title 6, Chapter 7 which enacts a spay/neuter ordinance as a secondary offense to "Running at Large" and "Vicious Animal" violations and repeal the provisions of Title 6, Chapter 7, Section 4 dealing with the mandatory licensing of dogs. Upon roll call vote, the motion carried unanimously

COMPREHENSIVE LAND USE PLAN AMENDMENTS:

At 7:55 P.M. a public hearing was opened for discussion pertaining to amendments to the City's Comprehensive Land Use Plan. Dave Shinneman, Planning Manager made a brief presentation in favor of the amendments. There was no opposition. The public hearing was declared closed at 8:04 P.M.

A motion was made by Dixon and seconded by Scott to pass Councillor's Bill No. 2 on first reading amending the Comprehensive Land Use Plan as proposed by Staff. Upon roll call vote, the motion carried unanimously.

COUNCILLOR'S BILL NO. 3 - COST RECOVERIES FOR WEST 101st/100st AVENUE:

A motion was made by Merkel and seconded by Atchison to pass Councillor's Bill No. 3 on first reading establishing recoverable costs for the West 101<sup>st</sup>/100<sup>th</sup> Avenue extension and assessing those costs to benefiting properties. Upon roll call vote, the motion carried unanimously.

BOND COUNSEL FEES FOR SELECTED PROJECTS:

A motion was made by Smith and seconded by Scott to authorize the payment of fees to Sherman & Howard as Bond Counsel and Special Counsel to the City as follows: \$11,990.63 for work on the Inland Pacific Guaranty, to be charged to Central Charges, Legal Fees, and \$2,335.000 for tax work on arbitrage earnings, to be charged to Finance Administration, Professional Services. The motion carried unanimously.

COUNCILLOR'S BILL NO. 4 – AMERICAN MULTI-CINEMA CONTRACT REVIEW:

A motion was made by Dixon and seconded by Merkel to pass Councillor's Bill No. 4 on first reading providing for a supplementary appropriation to the 1999 General Fund budget involving maintenance service payments from American Multi-Cinema Inc. Upon roll call vote, the motion carried unanimously.

1999 STANDLEY LAKE RECREATION PROGRAM:

A motion was made by Dixon and seconded by Atchison to adopt the 1999 Standley Lake Recreation Area fee structure as contained in Alternative 1. The motion carried unanimously.

RESOLUTION NO. 1 – JEFFERSON COUNTY OPEN SPACE:

A motion was made by Scott and seconded by Smith to adopt Resolution No. 1 authorizing the submittal of a \$2,000,000 Regional Sports Program grant application to Jefferson County Open Space for the construction of the final phase of City Park Ballfields Phase III; funding for these projects are available in both 1999 and 2000 CIP program. Upon roll call vote, the motion carried unanimously.

KETNER DAM OUTLET PIPE RECONSTRUCTION:

A motion was made by Merkel and seconded by Atchison to authorize the City Manager to sign a contract with Insituform Plains, Inc. for an amount not to exceed \$63,372 based on a finding that due to the specialized nature of this work, this contract will best serve the public interest; and expenditures to be charged to the 1999 Open Space Maintenance Budget. The motion carried unanimously.

COUNCILLOR'S BILL NO. 5 – APPROVAL OF TCI/AT&T MERGER:

A motion was made by Dixon and seconded by Atchison to Table Councillor's Bill No. 5 regarding the approval of the merger of TCI/AT&T. A motion was made by Dixon and seconded by Atchison to withdraw the motion.

A motion was made by Dixon and seconded by Atchison to pass Councillor's Bill No. 5 on first reading approving the merger of TCI/AT&T.

Margaret LA Juste, TCI Governmental representative addressed Council on the proposed merger. City Attorney Martin McCullough recommended the City request a letter from TCI/AT&T agreeing to the conditions set forth in Councillor's Bill No. 5. Gary Casner, Telecommunications Officer, was present to address Council.

Upon roll call vote, the motion carried unanimously.

ADJOURNMENT:

The meeting was adjourned at 8:35 P.M.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999  
**Subject:** Burns & McDonnell, Engineers 100 Year Presentation  
**Prepared By:** Ron Hellbusch, Director of Public Works and Utilities

**Introduction**

City Council is requested to accept on behalf of the City of Westminster, the recognition plaque being presented by the consulting firm of Burns and McDonnell. Burns and McDonnell celebrated their 100th anniversary in 1998, and is recognizing select clients who have played a role in their business growth and success.

**Summary**

Burns and McDonnell is a civil engineering consulting firm established in 1898 in Kansas City, Missouri. As part of their Centennial year, the firm is recognizing various municipal clients across the country who they have served. The City of Westminster was the firm's first Denver metro region client in 1987; their first year of business in Colorado.

**Staff Recommendation**

Accept the recognition plaque being presented by Burns and McDonnell Consulting Firm to the City of Westminster and extend to the firm the City of Westminster's congratulations for their success and growth over the past 100 years.

**Background Information**

Burns and McDonnell Consulting Firm was established in 1898 in Kansas City, Missouri, to serve public and private clients in the area of environmental and civil engineering services, including utility, streets and road and traffic design and project management services. The firm has grown nationally and internationally over the past 100 years, serving various public and private clients. The firm celebrated its centennial year by recognizing select regional clients who they have served. Westminster was the first municipal client they contracted with in 1987, which was their first year of operation in Colorado. Paul Fisher and Dennis Whitney, principals in the firm, will make the presentation to the Mayor, City Council and Staff.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** January 11, 1999

**Subject:** Recognition of Former Board and Commission Members

**Prepared by:** Michele Kelley, City Clerk

### **Introduction**

The City Council is requested to present Certificates of Appreciation in recognition of time dedicated to the City by several Board members whose have recently resigned.

### **Summary**

During the past few months, several citizens have resigned from various City Boards. Certificates of Appreciation recognizing the time and efforts of Vicki Atkins, Carmen Carrillo, High Frasier, Gregg Greenstein, Joe Sloan, Steve Wagner, Suzi Walker and Dori Walter. Certificates of appreciation have been prepared to be presented on behalf of the Mayor and entire Council.

### **Staff Recommendation**

Present certificates of appreciation for dedicated service to Vicki Atkins, Carmen Carrillo, High Frasier, Gregg Greenstein, Joe Sloan, Steve Wagner, Suzi Walker and Dori Walter

### **Background Information**

Vicki Atkins was appointed to the Parks and Recreation Advisory Board on March 6, 1995, her term expired on December 31, 1998 and she does not wish to be reappointed.

Carmen Carrillo was appointed to the Human Services Board on June 8, 1987, her term of office expired on December 31, 1998 and she does not wish to be reappointed.

Hugh Frasier was appointed to the Planning Commission on March 12, 1984, his term expired on December 31, 1998 and he does not wish to be reappointed.

Gregg Greenstein was appointed to the Board of Adjustment on March 6, 1997 and resigned on August 24, 1998.

Joe Sloan was appointed to the Transportation Commission Board on March 6, 1995, his term expired on December 31, 1998 and he does not wish to be reappointed.

Steve Wagner was appointed to the Environmental Advisory Board on March 6, 1995 and resigned on August 24, 1998.





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Suzi Walker was appointed to the Environmental Advisory Board on March 6, 1995 and resigned on September 28, 1998.

Dori Walter was appointed to the Library Board on December 13, 1989, her term of office expired on December 31, 1998 and she does not wish to be reappointed.

Vicki Atkins, Carmen Carrillo, Hugh Frasier, Gregg Greenstein, Joe Sloan, Steve Wagner, Suzi Walker and Dori Walter have all indicated that they will be present at Monday night's Council meeting.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** January 11, 1999  
**Subject:** Legacy Ridge Restaurant Lease Amendment  
**Prepared by:** Richard Dahl, Park Services Manager

### **Introduction**

City Council action is requested to authorize the City Manager to sign an amendment to the Lease Agreement between Legacy Grill, L.L.C. and the City of Westminster which raises the lease payment for the Legacy Grill for 1999 and 2000 by 10% each year and establishes the lease payment schedule for the Heritage at Westmoor Golf Course Restaurant.

### **Summary**

On April 14, 1997, City Council approved an Agreement between the City of Westminster and Legacy Grill, L.L.C. to operate food and beverage concession at the Legacy Ridge Golf Course known as the "Legacy Grill". This Agreement established a flat rate lease payment of \$2,500 per month (\$30,000 per year extended the lease to 5 years (starting in 1997) with an additional 5 year option; and provides for a review of the lease Agreement to be negotiated by the Director of Parks, Recreation and Libraries no later than December 15 of each On February 23, 1998 City Council authorized the City Manager to sign a lease with Legacy Grill, L.L.C. for the operation of the clubhouse restaurant for the Heritage at Westmoor Golf Course. The actual lease amount was to be negotiated at a later date and to follow a similar lease format as the Legacy Grill.

The Director of Parks, Recreation and Libraries and Legacy Grill, L.L.C. have negotiated a lease increase for the Legacy Grill of \$250 per month (\$2,750) for 1999 and an additional \$250 increase per month (\$3,000) for the year 2000. This represents a twenty (20%) percent lease payment increase over the next two years with a net revenue increase to the City of \$9,000. With the Heritage at Westmoor Golf Course opening scheduled for September 1999 a reduced restaurant lease payment plan is being recommended for the first twenty eight (28) months of operation. From opening day, until June 30, 2000, the lease payment would be \$1,750 per month; from July 1, 2000 through December 31, 2001 the lease Agreement would increase payments to \$2,500 per month. Estimated revenues for the the first twenty eight (28) months of the Heritage lease would be \$62,500.

### **Staff Recommendation**

Authorize the City Manager to sign an amendment to the lease with Legacy Grill, L.L.C. to increase the lease payment for the Legacy Grill for 1999 to \$2,750 and 2000 to \$3,000; and establish the lease payment schedule for the Heritage at Westmoor golf Course Restaurant from 1999 through December 31, 2001

### **Alternatives**

- 1) Reject the lease increase as proposed by Staff and keep all payments as written in the original lease. This would actually reduce revenues from the Legacy Restaurant lease.
- 2) Require Staff to re-open negotiations with Legacy Grill, LLC to change the terms and conditions of the lease. It is however, unlikely that a higher lease amount would be agreeable to the management of the Legacy Grill.



### **Background Information**

Since the opening of the Legacy Ridge Golf Course in 1994 Parks, Recreation and Libraries staff has worked closely with the original operator, Peter Hellermann of Gasthaus Ridgeview, Inc. and the current operator Bert Gehorsam of Legacy Grill LLC to establish a relationship that is advantageous to both parties. Staff is keenly aware that finding and keeping a concessionaire, who has the financial resources, restaurant expertise and commitment, to operate a golf course restaurant is very difficult. This has been demonstrated time and again at the Hyland Hills Golf Course which has had numerous concession operators over the years.

With this in mind Staff has given priority to insure that the concessionaire provides a quality restaurant environment with good food at reasonable prices while maintaining City Standards for service and hospitality.

In return, the concessionaire is supported by Staff in decisions that offer him opportunities to make a fair profit on his investment. Using the facility for private parties such as wedding and corporate events has been encouraged as long as it's not at the expense of golf operations. Currently the operator charges \$500 for rentals which require the closing of the restaurant to the general public (typically these are corporate Christmas parties or large weddings). This fee helps offset revenues lost from patrons who may have dropped in for dinner. It is estimated that there are approximately 40 functions per year that would require closing of the facility for private use, many of those during the Christmas season. A rental rate of \$150 is also being charged for the use of the banquet room for day long meetings or events.

City sponsored meetings and service organizations are not charged for the use of the facility at any time.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Date:** January 11, 1999

**Subject:** Intergovernmental Agreement between Arvada and Westminster

**Prepared by:** Bill Christopher, City Manager

### **Introduction**

City Council is requested to approve the attached Intergovernmental Agreement (IGA) between the Cities of Westminster and Arvada which addresses a variety of contemporary topics and issues in which both cities have an interest. More particularly, it sets forth agreements and actions pertaining to the Northwest Parkway, clean up of Rocky Flats, annexation boundaries, revenue sharing and Standley Lake Regional Park.

### **Summary**

The City Managers from the two respective cities have been negotiating a comprehensive IGA that addresses several contemporary topics and issues, which have been troublesome between the two cities in the past to varying degrees. The two City Managers have taken the initiative to pursue resolution of these matters with the intent of achieving mutual benefit for the respective City governments and their respective constituencies. The attached recommended agreement has been reviewed and approved by the City Attorney's Office.

This IGA represents a considerable amount of careful thought and earnest effort to bring together the mutual interest and concerns of the two adjoining cities. The two City Managers share a common belief that there is much mutual interest and opportunity for the two cities to forge alliances and agreements.

The key provisions of this IGA center on certain standards and actions pertaining to a segment of the Northwest Parkway. This action is precipitated by the unilateral action of the City of Broomfield on their quest to move ahead with the design and construction of the Parkway segment between I-25 and US 36. Also, the agreement sets forth, for the first time after several failed attempts, an annexation "line of demarcation" between the two cities west of Standley Lake along with revenue sharing provisions, potential interchanges in conjunction with the Northwest Parkway in the subject revenue sharing area, reinforcing the mutual commitment for the priority clean up effort at Rocky Flats and not pursue land use designations or redevelopment of Rocky Flats land at this time, water quality considerations to protect Westminster's drinking water supply in Standley Lake, and recognition of Arvada's collaboration on the Standley Lake Regional Park.

This IGA is scheduled for consideration by both City Councils on January 11.

### **Staff Recommendation**

Approve the Intergovernmental Agreement between the City of Westminster and the City of Arvada and authorize the appropriate City officials to execute the agreement.

## Background

The Cities of Westminster and Arvada have had a history of existing side-by-side in Jefferson County since 1971 when Westminster accomplished a major annexation to the west to include Standley Lake. There have been several issues such as “annexation wars” and negotiations to acquire the Standley Lake Water and Sanitation District, as well as competition for economic development prospects that have caused some degree of consternation between the two cities. To the credit of Arvada City Manager Craig Kocian, a receptive and open approach has been achieved to explore a focused effort with the Westminster City Manager to bring the two cities together on contemporary issues and opportunities that the two City Councils and City Managers have identified. Over the past 15 years, Westminster and Arvada representatives have pursued attempts at establishing an annexation “line of demarcation” west of Standley Lake to avoid undesirable contention. All of those have failed up to this point. There have been on going debates and disagreements over water quality related matters between the two cities as it relates to the protection of water quality in Standley Lake. There have been significant differences pertaining to the Northwest Parkway as well as the prior ill-fated W-470 beltway. More recently there have differences involving Rocky Flats as it relates to land use designations. All of these issues are addressed in the attached IGA, which in the opinion of City Staff have been adequately resolved or mitigated.

The “trigger” for the IGA negotiations was created when Broomfield established their transportation authority to finance and construct the Parkway segment between I-25 and US 36. This segment will terminate at State Highway 128 and west of Simms Street. The projected completion date for this highway is 2002 which will funnel significant traffic into Westminster and Arvada, which will further impact traffic congestion in our respective Cities. To address this situation, the two City Managers started discussing mutual concerns.

The following is a summary recap of the key provisions of the recommended IGA:

- The agreement would be for a period of 40 years and could be extended an additional 40 years or a shorter or longer term as the two parties might agree.
- The agreement sets forth an annexation “line of demarcation” pertaining to future annexations and utility services with 96<sup>th</sup> Avenue being the dividing line. Westminster would stay north of 96<sup>th</sup> Avenue, west of Standley Lake and Arvada would commit to remain south of 96<sup>th</sup> Avenue. Existing areas already annexed south of 96<sup>th</sup> Avenue by Westminster would be exempt from this provision.
- Annexation of street right-of-way within the scope of this agreement is spelled out. One of the two cities would be required to annex 100 percent of any right-of-way in question where the two cities would abut. State statute requires 100 percent of any street right-of-way to be annexed by one municipality.
- The Northwest Parkway alignment would be east of Rocky Flats with the subject segment of the parkway in question commencing at State Highway 128 and running south, using the Simms/Alkire/ Indiana Streets corridor, west to State Highway 93 approximately at State Highway 72, then south toward Golden using the present State Highway 93 corridor.
- The two cities agree to support a design standard that will facilitate sufficient movement of traffic on the Parkway utilizing a limited number of interchanges and using interstate highway standards.

- An experienced consultant would be retained to conduct a design speed analysis to establish speed limits along the segment of the Parkway. The cities would equally share the cost of this analysis.
- The two cities agree to support a toll feasibility study for the subject segment and will collaborate with Broomfield on the US 36 – I-25 segment toll study to the extent needed. The two cities would equally share the cost of the toll study.
- It is acknowledged that Westminster may purchase land for park or open space purposes west of Alkire Street and south of 96<sup>th</sup> Avenue, and Arvada may purchase land for the same purposes north of 96<sup>th</sup> Avenue. If Westminster purchases land south of 96<sup>th</sup> Avenue and west of the Church Ditch, Arvada would have the right to prevent said acquisition.
- The two cities agree to support an evaluation of engineering criteria for parkway interchange designations at 96<sup>th</sup> and 100<sup>th</sup> Avenues.
- Revenue sharing is established in the agreement in the area defined in Exhibit B with revenues to be shared consisting of property taxes, sales and use taxes, admission taxes and accommodation taxes. Revenue Sharing would be “triggered” by construction of one of the interchanges. Revenue would be shared on the basis of two-thirds to the City in which the development is located and one-third to the other City. In the event that both interchanges are built, revenue sharing would not take place.
- The Section on water quality is not yet finalized. Final wording will be provided on Monday.
- The two cities agree to pursue using the Church Ditch as an interceptor structure to provide water quality protection to Standley Lake by intercepting run off above the Ditch.
- Westminster would recognize Arvada’s contribution to the formation of the Standley Lake Regional Park with appropriate signage pertaining to the land which Arvada provided for the park.
- The two cities agree to work cooperatively on actively supporting the timely cleanup of Rocky Flats and that land use decisions pertaining to the future reuse of Rocky Flats land will be set aside until such time as an industrial level or higher standard of cleanup is achieved.

It should be noted that the intent of both Cities would be to remain active participants in the existing Northwest Quadrant Steering Committee. However, the IGA would contemplate the two cities moving ahead at a faster pace than the Steering Committee’s scope and process.

This comprehensive IGA is viewed as a landmark action between the two respective cities and is hoped to be a springboard to other cooperative efforts between the two respective cities.

Respectfully submitted,

William M. Christopher  
City Manager

Attachments

INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF ARVADA  
AND THE CITY OF WESTMINSTER ON DEVELOPMENT RELATED MATTERS

THIS AGREEMENT is entered into this        of January, 1999, by the City of Arvada, Colorado ("Arvada") and the City of Westminster, Colorado ("Westminster").

WHEREAS, Arvada and Westminster are Colorado home rule municipalities organized and acting pursuant to Colorado Constitution Article XX, Section 6; and

WHEREAS, Arvada and Westminster are lawfully authorized to make certain decisions pertaining to annexation, land development, transportation improvements and other related matters; and

WHEREAS, with respect to the subject matter of this Agreement, Arvada and Westminster intend to exercise to the fullest extent thereof all of the intergovernmental powers and authority granted to and vested in them pursuant to Colorado Constitution Article XX, Section 6, Article XIV, Section 18(2)(9), Article XI, Section 7, as well as Colorado Revised Statutes Sections 29-1-203, 29-20-101, et seq., 31-12-101, et seq., 31-23-201, et seq., and 31-23-301, et seq.

WHEREAS, Arvada and Westminster have determined it is in the best interest of both parties to cooperate and collaborate on development-related matters where the two Cities have deemed it to be in their mutual interest and in the best interest of their citizens to do so; and

WHEREAS, the two Cities agree that the Northwest Parkway is a necessary transportation link in the vicinity of the two respective Cities and therefore are supportive of working together on the extension of the Northwest Parkway south of State Highway 128 where the City of Broomfield's extension of the Northwest Parkway will terminate; and

WHEREAS, both parties are participating in the Northwest Quadrant Steering Committee and would plan to remain as active participants; and

WHEREAS, the two Cities wish to avoid annexation conflicts and wish to cooperate on municipal boundaries west of Standley Lake; and

WHEREAS, Arvada and Westminster are desirous of collaborating on making the cleanup of Rocky Flats the top priority among the various Rocky Flats issues.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the parties agree as follows:

A.     TERM OF AGREEMENT; GROWTH AREA; COMPREHENSIVE PLAN REVIEW

1.     The agreement shall be for a period of 40 years. By written mutual agreement, the two parties may extend the agreement an additional 40 years prior to expiration or such shorter or longer term as the parties may agree.
  
2.     In order to assure good municipal planning and to avoid duplication of extension of water and sewer lines to the affected areas, Arvada and Westminster agree that 96th Avenue, west of Alkire Street, shall be the line of demarcation pertaining to future annexations and utility services. Arvada shall remain south of 96th Avenue and Westminster shall stay north of 96th Avenue. This border shall extend west from Standley Lake Regional Park's western boundary to the eastern boundary of Rocky Flats. Existing areas already annexed south of 96th Avenue by Westminster shall be exempt from this provision. Exhibit A depicts the respective growth boundary area to be agreed upon.



3. Arvada and Westminster acknowledge that this Intergovernmental Agreement is premised upon the existing Comprehensive Land Use Plan of each respective City. Any proposed changes to the subject Comprehensive Land Use Plan of either City as they pertain to the area contemplated by this agreement and depicted in Exhibit A shall be reviewed with the other City for information purposes and general input 30 days prior to Planning Commission consideration of the proposed change. Nothing in this paragraph or agreement precludes each City from being the final decision-maker of their respective Comprehensive Land Use Plan amendments.

B. ANNEXATION AND USES OF STREETS RIGHTS-OF-WAY

The issue of annexing street right-of-way, where applicable, within the area depicted by Exhibit A will be determined by a future agreement since one of the two Cities will need to annex 100% of the right-of-way in question to be in compliance with State Statute. The annexation of 96th Avenue and perhaps other rights-of-way shall be handled in this manner within the area shown on Exhibit A.

C. ALIGNMENT OF NORTHWEST PARKWAY

Arvada and Westminster agree to support an alignment of the Northwest Parkway to be on the east side of Rocky Flats. The segment of the Parkway in question would commence at State Highway 128 and run south using the Simms/Alkire/Indiana Street corridor west to State Highway 93 approximately at State Highway 72, then south toward Golden using the present State Highway 93 corridor. Said support shall include but not be limited to discussions, votes and decisions that pertain to this segment of the Parkway by the Northwest Quadrant Steering Committee, Jefferson County Commissioners, Denver Regional Council of Governments, CDOT, City of Broomfield and any other relevant group.

D. DESIGN SPEED

Arvada and Westminster agree to support a design standard that will facilitate efficient movement of traffic on the Parkway utilizing a reasonable number of interchanges, but not at grade intersections. Interstate highways standards will be the supported design standard. Said support shall include but not be limited to discussions, votes and decisions that pertain to this segment of the Parkway by the Northwest Quadrant Steering Committee, Jefferson County Commissioners, Denver Regional Council of Governments, CDOT, City of Broomfield and any other relevant group.

E. TOLL STUDY

Arvada and Westminster will agree to support a toll study for this segment of the Parkway and will collaborate with Broomfield on the US 36 - I-25 segment toll study to the extent needed. Said support shall include but not be limited to discussions, votes and decisions that pertain to this segment of the Parkway by the Northwest Quadrant Steering Committee, Jefferson County Commissioners, Denver Regional Council of Governments, CDOT, City of Broomfield and any other relevant group.

F. PARK AND OPEN SPACE LAND PURCHASES

It is acknowledged by the parties that Westminster may purchase land for park or open space purposes west of Alkire Street and south of 96th Avenue and Arvada may purchase land for the same purposes north of 96<sup>th</sup> Avenue. Said land purchases would be annexed by the respective City that purchased the land when in accordance with applicable States Statutes. Parkland cannot be converted later to some other land use without approval of the other City. Arvada would have the right to reject any park or open space acquisition by Westminster west of the Church Ditch and south of 96th Avenue.

G. INTERCHANGE DESIGN STUDY

Arvada and Westminster agree to support an evaluation of engineering criteria for Parkway interchange designations at approximately 96th Avenue and 100th Avenue. Included in this engineering analysis, will be the feasibility of a configuration of the two subject locations into a common interchange with appropriate connecting ramps and roads. If the two interchanges are deemed to be feasible, both parties agree to support the construction of both interchanges. Said support shall include but not be limited to discussions, votes and decisions that pertain to this segment of the Parkway by the Northwest Quadrant Steering Committee, Jefferson County Commissioners, Denver Regional Council of Governments, CDOT, City of Broomfield and any other relevant group.

H. REVENUE SHARING

The two parties agree to establish revenue sharing within the area defined in Exhibit B. Revenues to be shared shall consist of Property Taxes, Sales and Use Taxes, Admission Taxes and Accommodation Tax. Revenue shall be shared on the basis of 2/3 to the City in which the development is located and 1/3 to the other City. Revenue sharing between the two Cities would not commence until the Northwest Parkway segment addressed in this agreement is built. If both interchanges are built, no revenue sharing would take place.

I. WATER QUALITY

**(WORDING TO BE PROVIDED ON MONDAY, 1/11/99.)**

J. RECOGNITION OF ARVADA'S COLLABORATION ON STANDLEY LAKE REGIONAL PARK

Recognizing Arvada's contribution to the formation of Standley Lake Regional Park, Westminster agrees to include on all signage acknowledgement of Arvada in language and lettering equal to that of Jefferson County Open Space, except on the south side of the park bordering Arvada where all signage shall include acknowledgement of Arvada as a participant in the formation of the park. Said signage shall be subject to review and approval by Arvada.

K. ROCKY FLATS CLEAN-UP

Arvada and Westminster agree to work cooperatively together on actively supporting the timely cleanup of Rocky Flats. Land use decisions pertaining to the future reuse of Rocky Flats lands will be set aside until such time as an industrial level or higher standard of clean-up is achieved. The two Cities shall carry out these stated actions working with all appropriate and interested parties including RFLII, the successor to RFLII, DOE, EPA, Colorado Department of Public Health and Environment, Governor's Office and Jefferson County Officials.

L. OTHER PROVISIONS

1. Arvada and Westminster agree to a reopener clause whereby one party can request discussion on adding new items to this Intergovernmental Agreement at any time. Any amendments shall be in writing and approved by both parties.
2. Parties to Exercise Good Faith. Arvada and Westminster agree to devote their best efforts and to exercise good faith in implementing the provisions of this Agreement.
3. Agreement. This Agreement is intended to describe rights and responsibilities only as between the named parties hereto. It is not intended and shall not be deemed to confer rights to any persons or entities not named as parties hereto nor to require Arvada or Westminster to annex any property or to provide any services to any land.
4. Remedies for Default. Should any party fail to comply with the provisions of this Agreement, the other party, after providing written notification to the noncomplying party and upon the failure of said party to achieve compliance within ninety (90) days after said notice, may at its option either terminate this Agreement or maintain an action in a court of competent jurisdiction for specific performance, injunctive, or other appropriate relief, excluding damages relief. In the event of such litigation, each party shall be responsible for its own costs, including attorneys fees.
5. Exhibits. All exhibits referred to in this Agreement are by reference incorporated herein and made an integral part hereof for all purposes.
6. No Third Party Beneficiaries. This Agreement is intended to describe the rights and responsibilities only as to the parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.
7. Waiver of Breach. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver or any subsequent breach by either Party.
8. Nonsubstantive Changes. The City Attorney for Westminster and the City Attorney for Arvada are authorized to approve nonsubstantive changes to this Agreement on behalf of their respective cities.

Intergovernmental Agreement Between the City of Arvada  
And the City of Westminster on Development Related Matters  
Page 5

City of Arvada  
State of Colorado

City of Westminster  
State of Colorado

By \_\_\_\_\_  
Robert Frie  
Mayor

By \_\_\_\_\_  
Nancy M. Heil  
Mayor

ATTEST:

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
City Clerk

APPROVED AS TO LEGAL FORM:

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
City Attorney

**Date:** January 11, 1999

**Subject:** Councillor's Bill No. re Animal Control Ordinance Amendments

**Prepared by:** Dan Montgomery, Chief of Police  
Sergeant Steve Peterson, Neighborhood Services Supervisor

### **Introduction**

City Council action is requested on the attached Councillor's Bill which would amend the Westminster Municipal Code, Title 6, Chapter 7, Animal Control Ordinances. These changes would (1) substantially increase fines on unneutered domestic animals found running at large or determined to be vicious, and (2) repeal the provisions of Westminster Municipal Code, Title 6, Chapter 7, Section 4, relating to the Mandatory (Free) Licensing of Dogs.

### **Summary**

At the August 24, 1998 Council meeting Ms. Gwen Buckley of 4044 West 77th Place, made a presentation to City Council asking the City to initiate a spay/neuter ordinance. The intent would be to attempt to control the number of unwanted domestic pets in our community and to reduce the number of animals that are euthanized in local animal shelters. In the October 14, 1998 Council Study Session, Staff presented a spay/neuter recommendation to Council which makes a violation of the spay/neuter law a secondary offense to current violations of running-at-large and harboring of vicious animals. City Council directed Staff to provide recommendations and alternatives for consideration at a future Council meeting. In reviewing the existing ordinance, Staff also concluded that it would be timely to delete those provisions of the Code requiring City licensing of dogs. This recommendation is based on the fact that all dogs must have rabies tags and tracing can be accomplished via these rabies tags.

### **Staff Recommendation**

Pass Councillor's Bill No. on first reading amending the Westminster Municipal Code, Title 6, Chapter 7, which enacts a "Spay/Neuter Ordinance" as a secondary offense to "Running-At-Large" and "Vicious Animal" violations and repeal the provisions of Title 6, Chapter 7, Section 4, dealing with the "Mandatory Licensing of Dogs."

### **Background Information**

In 1994, the City of Aurora enacted a spay/neuter ordinance and the City of Denver followed suit in 1995. Both ordinances prohibit the possession, ownership or keeping of unaltered cats and dogs in the respective cities. Exemptions from these laws include: medical conditions, transitory status, and licensed breeders (license issued by the jurisdiction). Jefferson County deals with the spay/neuter issue through licensing and they charge a fee of \$5.00 for each altered (dogs only) pet and \$20.00 for each unaltered dog.

Currently, Westminster offers free (dog) licensing to citizens with proof of rabies vaccination. It is estimated that less than 40% of pet owners license their animals through jurisdictions that require licensing. Staff has evaluated the issue of dog licensing in the City and believes that the time and funding required to administer the licensing program does not outweigh the benefits of licensing several thousand dollars in time and supplies can be saved over the course of a year for what is really a public relations program. Ownership can be determined from State regulated/City mandated rabies vaccinations. Rabies tags must be worn by all dogs and cats over four months of age.

Animal Control has no office support staff and dog licensing takes away a significant amount of patrol time with issuance of licenses, data entry, and yearly followups on renewals. Staff believes that repealing Section WMC 6-7-4, Mandatory Licensing of Dogs will enhance the Animal Control effort in Westminster by allowing more time for positive community interactions.

All metro area shelters have shown a five to six year downward trend in the number of animals euthanized. In communities with blanket mandatory spay/neuter ordinances, statistics cannot attribute these declines to their laws. All metro area shelters practice spaying and neutering of all adopted pets that contribute to the decline in the total number of animals in the community.

Staff believes in the importance of rights and desires of responsible pet owners and supports a middle-of-the-road approach that will be effective and manageable. Staff recommends tying spay/neuter requirements (as a secondary offense) to animals who are already a demonstrated public nuisance - animals (dogs and cats) running-at-large and vicious animals. Owners of animals in violation of the above section(s) would be issued a summons assessing a fine of \$250. It would be the responsibility of the owner to present proof of spay/neuter for the offending animal to the court prior to trial. Upon presentation of such proof, \$200 of the fine would be suspended. The spaying or neutering of a pet would be a less costly option for the owner of an offending animal.

Alternatives:

- Leave the animal control ordinance as written, relying on public education and current downward trends in euthanasia and animal impounds to continue.
- Leave the current animal control ordinances in place, however, levy increased fines for animals exhibiting public nuisance behaviors such as running-at-large and vicious animals. Present fines for first offense are \$50.00 for running-at-large and \$75.00 for vicious animal. While viable staff would point out that this charge would not impact the unaltered animal problems faced.
- Enact a blanket spay/neuter ordinance such as Denver or Aurora's which require all dogs and cats harbored in the City to be altered unless the owner has a breeder's permit issued by the City and certain health exceptions. Staff would point out that this alternative, while viable, may be too far-reaching and politically sensitive.
- Continue to require City licensing of dogs with annual renewal of tags.

Respectfully submitted,

William M Christopher  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1999

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE REPEALING THE REQUIREMENT FOR DOG LICENSES AND REQUIRING NEUTERING/SPAYING FOR ANIMALS FOUND TO BE RUNNING AT LARGE OR VICIOUS ANIMALS.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 2 of Chapter 7, Title 6, Westminster Municipal Code, is hereby amended to read as follows:

6-7-2: RABIES CONTROL:

(C) Proof of Vaccination: It shall be unlawful for any person who owns a vaccinated animal to fail or refuse to exhibit his copy of the certificate of vaccination upon demand to any person charged with the enforcement of this Chapter. A CURRENT RABIES TAG SHALL BE ATTACHED TO A COLLAR, HARNESS OR OTHER DEVICE AND SHALL BE WORN BY THE VACCINATED DOG OR CAT AT ALL TIMES.

Section 2. Section 4 of Chapter 7, Title 6, Westminster Municipal Code, is hereby REPEALED:

~~6-7-4: LICENSING OF DOGS: (A) License Required: Any owner of a dog four (4) months of age or older shall procure a license for said dog. All dog licenses issued hereunder shall be valid for one year, beginning on the date of vaccination, and must be renewed each year. A grace period of 30 days will be authorized for renewing licenses beyond the actual expiration date. Upon proof of current valid rabies vaccination signed by a licensed veterinarian the City shall issue a dated and numbered receipt stating the name and address of the owner, rabies receipt number, or issuing veterinarian's name, description of the dog and a City license tag stamped with a serial number and year. There shall be no charge for a City dog license. It shall be a violation of this Section for an owner to fail to comply with this licensing provision.~~

~~(B) License Displayed: A current license tag shall be attached to a collar, harness or other device and shall be worn by the licensed dog at all times.~~

~~(C) Replacement Tags: In the event of loss or destruction of the original license tag, the owner shall obtain another license receipt and tag from the City.~~

~~(D) False License Documents: It shall be unlawful for any person to make use of a license receipt, license tag, or other official form used as a part of this licensing procedure which has issued to another person.~~

~~(E) Nontransferability: Dog licenses are not transferable and it shall be unlawful for any person to use any license or license tag for any dog other than the dog for which such tag was originally issued.~~

Section 3. Section 5 of Chapter 7, Title 6, Westminster Municipal Code, is hereby amended to read as follows:

6-7-5: ANIMALS RUNNING AT LARGE:

(A) ANIMALS RUNNING AT LARGE.

1. Animals Running at Large Prohibited: It shall be unlawful for any owner of an animal to fail to restrain the animal by physical means from running at large. In addition to being a violation of this section, an animal running at large is declared to be a public nuisance which may be abated pursuant to the provisions specified in Chapter 4 of Title VIII of this Code.

2. NEUTERING/SPAYING REQUIRED: IT SHALL BE UNLAWFUL FOR ANY OWNER OF AN ANIMAL TO FAIL TO RESTRAIN THE ANIMAL FROM RUNNING AT LARGE IN A NON-NEUTERED OR UNSPAYED CONDITION. IF AN OWNER FAILS TO RESTRAIN HIS ANIMAL FROM RUNNING AT LARGE IN A NON-NEUTERED OR UNSPAYED CONDITION, THE COURT SHALL ASSESS A FINE PURSUANT TO SECTION 6-7-16(C)3. IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED AND PROOF HAS BEEN PRESENTED TO THE COURT, THE FINE SHALL BE REDUCED AS PROVIDED IN SECTION 6-7-16 (C)

3. IT SHALL BE THE BURDEN OF THE OWNER TO PROVE THAT THE ANIMAL IS NEUTERED OR SPAYED, BY THE PRODUCTION OF A VETERINARIAN'S OPINION OR OTHER DOCUMENTARY EVIDENCE.

Section 4. Section 8 of Chapter 7, Title 6, Westminster Municipal Code, is hereby amended to read as follows:

6-7-8: VICIOUS ANIMALS AND GUARD DOGS:

(A) VICIOUS ANIMALS.

1. VICIOUS ANIMALS UNLAWFUL: It shall be unlawful for any person to own or harbor a vicious animal within the City. Any animal which has bitten or attacked a person or other animal or which has demonstrated tendencies that would cause a reasonable person to believe that the animal may inflict injury upon or cause the death of any person or other animal may be summarily impounded when the animal control officer reasonably believes the animal is a present threat to the health or safety of the community. Such animal is hereby declared to be a public nuisance, which may be abated by the Court in proceeding brought under the procedures established in this Code for the abatement of nuisances. If impoundment of said animal cannot be made with safety to the animal control officer or other persons, the animal may be destroyed by an animal control officer or peace officer without notice to the owner or harborer.

2. NEUTERING/SPAYING REQUIRED: IT SHALL B3 UNLAWFUL FOR ANY OWNER OF A VICIOUS ANIMAL TO ALLOW THE ANIMAL TO REMAIN IN A NON-NEUTERED OR UNSPAYED CONDITION. THE COURT SHALL ASSESS A FINE PURSUANT TO SECTION 6-7-16(C)3, UPON THE OWNER OF A VICIOUS ANIMAL. IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED AND PROOF HAS BEEN PRESENTED TO THE COURT, THE FINE SHALL BE REDUCED AS PROVIDED IN SECTION 6-7-16(C)3. IT SHALL BE THE BURDEN OF THE OWNER TO PROVE THAT THE ANIMAL IS NEUTERED OR SPAYED, BY THE PRODUCTION OF A VETERINARIAN'S OPINION OR OTHER DOCUMENTARY EVIDENCE.

Section 5. Section 16(C) of Chapter 7, Title 6, Westminster Municipal Code, is hereby amended to read as follows:

(C) Minimum Fines: Minimum fines upon conviction shall be imposed as listed below, and the Municipal Court Judge shall not have discretion to suspend or reduce these fines:



1. First Offense - fine of not less than fifty dollars (\$50) Second and subsequent offenses - fine of not less than seventy-five dollars (\$75)

- 6-7-2 (C) Refusal to Provide Proof of Vaccination
- 6-7-2 (D) Harboring Unvaccinated Dogs and Cats
- 6-7-2 (E) Non-Transferability - Vaccination Certificates or Tags
- 6-7-3 (A) Duty to Report Animal Bite
- 6-7-3 (C) Failing to Report Suspected Rabies
- 6-7-3 (D) Refusal to Produce Animal
- 6-7-3 (E) Removal of Animals from Confinement
- ~~6-7-4 (A) Licensing of Dogs~~
- ~~6-7-4 (D) False License Documents~~
- ~~6-7-4 (E) Non-Transferability Dog Licenses~~
- ~~6-7-5 (A) Animals Running at Large~~
- 6-7-5 (B) Failure to Confine
- 6-7-6 (A) Removal of Animal Excrement
- 6-7-6 (B) Damage to Property
- 6-7-7 (A) Disturbance
- 6-7-7 (C) Failure to exercise control
- 6-7-10 (E) Failure to care for animals
- 6-7-11 (D) Failure to care for animals
- 6-7-12 (G) Potbellied pig requirements

2. First Offense - Fine of not less than seventy five dollars (\$75). Second and subsequent offenses - fine of not less than one hundred twenty-five dollars (\$125)

- 6-7-2 (A) Failure to have Dog or Cat Inoculated
- 6-7-2 (B) Failure to Inoculate Against Rabies
- ~~6-7-8 (A) Harboring a Vicious Animal~~
- 6-7-8 (B) Guard Dog
- 6-7-10 (A) Unlicensed Kennel
- 6-7-11 (A) Unlicensed Pet Shop
- 6-7-12 (A) Pet Animals Limited
- 6-7-12 (B) Livestock Limited
- 6-7-12 (C) Exotic Animals Prohibited
- 6-7-12 (E) Endangered Species Prohibited
- 6-7-13 (A) Cruelty to Animals
- 6-7-13 (B) Poisoning Animals
- 6-7-13 (C) Neglect of Animals
- 6-7-13 (D) Abandoning Animals
- 6-7-13 (G) Displaying or Sale of Dyed or Immature Animals
- 6-7-13 (H) Fighting Animals
- 6-7-16 (A) Interference

3. FINE: REDUCED FINE FOR NEUTER OR SPAY:

6-7-5 (A) ANIMALS RUNNING AT LARGE: FIRST OFFENSE – A FINE OF NOT LESS THAN TWO HUNDRED FIFTY DOLLARS (\$250), EXCEPT THAT IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED, THE FINE SHALL BE REDUCED TO FIFTY DOLLARS (\$50). SECOND AND SUBSEQUENT OFFENSES - FINE OF NOT LESS THAN TWO HUNDRED SEVENTY-FIVE DOLLARS (\$275), EXCEPT THAT IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED, THE FINE SHALL BE REDUCED TO SEVENTY-FIVE DOLLARS (\$75):

6-7-8 (A) HARBORING A VICIOUS ANIMAL: FIRST OFFENSE – A FINE OF NOT LESS THAN TWO HUNDRED SEVENTY FIVE DOLLARS (\$275), EXCEPT THAT IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED, THE FINE SHALL BE REDUCED TO SEVENTY-FIVE DOLLARS (\$75). SECOND AND SUBSEQUENCE OFFENSES – FINE OF NOT LESS THAN THREE HUNDRED TWENTY-FIVE DOLLARS (\$325), EXCEPT THAT IF THE ANIMAL HAS BEEN NEUTERED OR SPAYED, THE FINE SHALL BE REDUCED TO ONE HUNDRED TWENTY-FIVE DOLLARS (\$125)

4. Any other section hereof not specifically listed above: First offense - fine of not less than twenty-five dollars (\$25) Second and subsequent offenses - fine of not less than fifty dollars (\$50)

Section 6. This ordinance shall take effect upon its passage after second reading.

Section 7. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of January, 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25<sup>TH</sup> day of January, 1999.

ATTEST:

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Mayor

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City Clerk



**Date:** January 11, 1999  
**Subject:** Amendments to the Comprehensive Land Use Plan  
**Prepared by:** David Falconieri, Planner III

### **Introduction**

City Council is requested to hold a public hearing and take action on several amendments to the Comprehensive Land Use Plan (CLUP) as proposed by Staff. The amendments are required to correct various inaccuracies and mapping flaws in the current plan, and to reflect recent City Open Space purchases.

### **Summary**

When the Comprehensive Land Use Plan was originally prepared, data was compiled from several sources to create the maps. The sources did not always reflect the same information; as a result, there are several areas where property lines are incorrectly drawn. Also after close scrutiny, Staff has discovered several areas where the CLUP designation inaccurately shows the existing land uses.

The purpose of these minor amendments is to redraw the affected maps so that they are current and accurate. Staff has also included several parcels which have recently been purchased by the City for Open Space and therefore need to be changed on the CLUP.

Attached are 18 maps, which show the proposed changes to 40 different properties within the City. Each change is described separately in the "Background" section of this report. Staff considers this type of amendment to be typical of CLUP's which must be occasionally amended to reflect actual changes, which occur over time.

### **Planning Commission Recommendation**

The Planning Commission reviewed the proposed changes on December 9th and voted unanimously to recommend that the changes be adopted as proposed. No one appeared at the public hearing, either for or against the proposal.

### **Staff Recommendation**

1. Hold a public hearing.
2. Pass Councillor's Bill No. on first reading amending the Comprehensive Land Use Plan as proposed by Staff.

### **Background Information**

The amendments proposed by Staff are shown on the attached maps, which are numbered from 1 to 18. Some maps show more than one change. Each map shows the current plan designations on top and the proposed change on the bottom, with the exact location of the proposed change circled with a heavy black line.



The discussion below will address the change(s) on each map in order:

- #1. The City owned parcel at the corner of 80th Avenue and US 36 is currently incorrectly shown. The proposed revision will show the correct boundaries of the Open Space land.
- #2. The current plan shows the Legacy Ridge private pool and Clubhouse on the west side of Legacy Ridge Parkway. It was actually built on the east side. Also, the Preliminary Development Plan allows the old Bruchez Homestead site to be used as a restaurant site. The proposed revisions reflect that agreement.
- #3. A portion of the Big Dry Creek channel, which has been purchased by the City is incorrectly shown as "Public". The revision will designate the land as Open Space.
- #4. A small portion of the Remington West Apartments adjacent to the railroad tracks was omitted from the CLUP. The revision will include that parcel as Multi-Family.
- #5. This proposed amendment reclassifies the Dry Creek Ranch property as Open Space to reflect the City's recent purchase.
- #6. Property was recently annexed on Lowell Boulevard south of 92nd Avenue for the relocation of Fire Station #2. The proposed revision will add this site to the Plan as Public.
- #7. A parcel adjacent to Windsor Park was recently purchased from the school district for the purpose of expanding the park. The proposed revision will reflect that change.
- #8. A portion of the townhome area in College Hills is inaccurately shown as Single-Family Detached. The proposed revision will show the actual boundary of the townhomes as they are constructed.
- #9. The large tract that was purchased by the City south of 128th Avenue as part of the Big Dry Creek Open Space, is redesignated as Open Space to reflect that purchase.
- #10. This map shows three proposed changes. The detention area in the northwest corner of Home Farm should be changed from Floodplain to Private Open Space; the park within Home Farm should be shown as Private Open Space rather than as Single-Family Detached; and the site for Fire Station #6 in Park Centre was omitted from the CLUP and should be shown as Public.
- #11. Three changes are shown on this map as well. The veterinary office across the street from the entrance to the Mall on 88th Avenue was omitted from the CLUP and should be designated as Commercial; the site boundary for the Mobile Tool site is incorrectly drawn and is therefore incorrectly designated as Commercial when it should be Industrial; and the City Police facility was omitted from the CLUP and should be shown as Public.
- #12. The Wendemere at the Ranch apartment complex is currently shown as being all townhomes. The actual development was built with a large Multi-Family portion. The proposed amendment shows the correct land use.
- #13. The Private Open Space parcel boundaries in the Silo Townhomes development are incorrectly drawn. The amendment shows the correct boundaries.
- #14. This map shows two changes. A Single-Family site on Lowell Boulevard is incorrectly designated as Public. The proposed amendment shows the correct boundaries; also, the Municipal Park site is currently shown as Public and should be shown as Public Park.

- #15. Three changes are shown on this map. The boundary of the Dos Pueblos Multi-Family development is not currently correct. The proposed amendment shows the correct extent of the development; the church on the south side of Dos Pueblos is shown as Office and should be Public; also, two small offices south of Westminster Place on the east side of Lowell Boulevard are shown as Public and should instead be shown as Office.
- #16. This map contains five proposed changes. The former City Shop building on 72nd Avenue is currently shown as a Park site and should instead be shown as Public; a small area on Lowell Boulevard is shown as a Park site but was purchased by the City as Open Space and should be so designated; the old Fireplace Equipment Company on Lowell Boulevard was recently purchased for Open Space by the City and should be so coded; the boundary of the Camp Stone site is incorrectly drawn on the current CLUP. The proposed amendment shows the actual boundary; finally on this map, a small sliver of land along 68th Avenue belonging to the East Bay development was omitted from the CLUP and should be added as Private Open Space as delineated on the projects Official Development Plan.
- #17. A parcel of land north of the Farmers' High Line Canal and west of Yates Street is shown as Public. This was originally intended as a new fire station site but is no longer targeted for that use. The proposed amendment will reclassify the parcel as Office.
- #18. This map shows ten small changes, which are intended to reflect the actual land use for the various parcels, which are currently incorrect on the CLUP. In each case, the Staff is proposing that the CLUP be amended to reflect the actual land use that exists now and which is inaccurately shown on the current CLUP.

Respectfully submitted,

William Christopher  
City Manager  
Attachments





BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1999

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN

WHEREAS, the City maintains a Comprehensive Land Use Plan which regulates land uses within the City; and

WHEREAS, the City Council periodically reviews the Plan to assure that it accurately reflects current conditions;

WHEREAS, amendments to the Plan are necessary to keep the Plan up to date and to correct several mapping inaccuracies; and

WHEREAS, the Planning Commission has reviewed the proposed amendments and has recommended approval to the City Council.

NOW THEREFORE, the City Council hereby finds that the required procedures for amending the Comprehensive Land Use Plan as delineated in the Westminster Municipal Code have been satisfied.

THE CITY OF WESTMINSTER ORDAINS:

**Section 1.** The City Council authorizes City Staff to make the necessary changes to the maps and text of the Westminster Comprehensive Land Use Plan which are delineated and described on the attached "Exhibits A through R"

**Section 2.** Severability : If any section, paragraph, clause, word or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part deemed unenforceable shall not affect any of the remaining provisions.

**Section 3.** This ordinance shall take effect upon its passage after second reading.

**Section 4.** The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of January, 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 25th day of January, 1999.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999

**Subject:** Councillor's Bill No. Establishing Cost Recoveries for the West 101st/100th Avenue Extension Project

**Prepared by:** Stephen C. Baumann, Assistant City Engineer

### **Introduction**

City Council action is requested to pass the attached Councillor's Bill on first reading establishing the cost recovery assessment to properties which adjoin and benefit from the design and construction of the West 101st/100th Avenue (Church Ranch Boulevard) Extension. The assessment is based on the City's cost and does not include costs covered by Federal funding or funds provided by Jefferson County in accomplishing the project.

### **Summary**

In 1993, the City and Jefferson County committed to design and construction of a street connection which would extend Church Ranch Boulevard from Old Wadsworth Boulevard to Colorado Highway No. 121 (Wadsworth Parkway). Subsequently, Federal funding in the amount of nearly \$5 million was secured for the project along with \$768,000 from Jefferson County.

The project is now finished, and the final accounting shows the City's share of the project cost to be approximately \$1,680,500 for design, construction and construction engineering, plus \$854,000 for property acquisition activities. According to Title 11 of the City Code, a portion of these costs is eligible for recovery from adjoining properties. The proposed ordinance calls for an assessment of \$150.00 per linear foot of private property frontage for the engineering and construction costs. The City's costs for right-of-way would be determined and assessed individually to each property. Assessment of recoverable costs would be done only to properties that develop or redevelop.

Alternatives to the proposed ordinance are discussed at length elsewhere in this memo, but they include: 1) waiving the assessment of recoverable costs altogether; 2) using a different methodology for determining the assessment rate; and 3) reimbursing the Federal government for the share that might be collected on their behalf. Staff does not recommend any of these alternatives because: 1) developable properties adjoining the new street clearly benefit from the project; 2) the method of apportionment follows the City's Code; and 3) reimbursing the Federal share is not the intention nor within the administrative capability of the Intermodal Surface Transportation Efficiency Act; 4) the recovery approach has been used widely throughout the City to equitably apportion the cost to build streets and utilities to benefit properties.

### **Staff Recommendation**

Pass Councillor's Bill No. \_\_\_\_\_ on first reading establishing recoverable costs for the West 101st/100th Avenue extension and assessing those costs to benefiting properties.



## **Background Information**

In the early 1990s, the City and Jefferson County committed resources to a project that would extend Church Ranch Boulevard west from old Wadsworth Boulevard to Wadsworth Parkway. This street connection promised to improve safety by grade separating the Burlington Northern Railroad crossing and Zephyr Drive from 101st Avenue. Other benefits included much improved local and regional traffic operations and improved development opportunity for several properties along the alignment, most notably those vacant parcels near 100th Avenue and Wadsworth Parkway.

The project received a significant boost when nearly \$5 million in Federal aid funding was secured under the Intermodal Surface Transportation Efficiency Act (ISTEA). Combined with a contribution from Jefferson County in the amount of \$768,000 over several years, the project was completed in 1997 with \$2.5 million of the City's funds.

Title 11 of the Municipal Code allows the recovery of a portion of the City's costs for engineering, right-of-way acquisition, construction and other activities necessary to accomplish the project. In calculating the share of the project costs that would be eligible for assessment to adjoining property owners, City Staff excluded the contribution from both the ISTEA funding and Jefferson County. This is a significant benefit to those properties which will develop or redevelop in the future, since outside funding covered nearly 70% of the project cost.

The attached Councillor's Bill delineates the costs which will be apportioned and assessed to the adjoining properties. The first component of the assessment will include the City's cost for design and construction engineering and the construction activities themselves (\$1,680,475) divided by the 4,480 foot project length and results in an assessment of \$150 per linear foot of frontage along the project. The second component of the assessment is for property acquisition costs (\$854,000) and they will be dealt with individually when and if any adjoining property develops or redevelops. The City acquired right-of-way from 16 ownerships. In some cases, the acquisition was simple and accomplished at or near the City's appraised value. In other cases, negotiations and compromise were necessary and resulted in higher acquisition costs. One case necessitated going to trial. Staff has evaluated this circumstance and concluded that a fair apportionment cannot be accomplished by dividing right-of-way costs equally among the adjoining project owners as is done with the construction costs. Therefore, the ordinance calls for right-of-way costs to be assessed individually based upon the actual right-of-way costs to the City for that particular acquisition. As with the engineering and construction costs, the Federal share and the Jefferson County share are not included in the assessment.

Alternatives to the adoption of the proposed ordinance include waiving the assessment of any project costs to adjoining properties. Developers might make the case that the City cover all of the local share of the project without help from private property because of the outside funding and because the improvements have regional benefit. This would not be a responsible approach, however, since the nearby developable properties clearly benefit from the improvements and would normally be responsible for designing and building the portion of the public facilities needed to serve their property. In addition, the funding from outside sources covered nearly 70% of the project costs, so the City's share (and thus the developer's share) is very reasonable; even "low-cost" when compared to other similar arterial street projects.

Another alternative would include collection and reimbursement to the Federal government for a portion of their costs in addition to the assessment of the City's share. Staff checked with the Colorado Department of Transportation and this reimbursement idea is nowhere covered in the ISTEA program rules. It would also be an administrative nightmare and is not recommended, given the relatively small amount of the assessment in comparison to the Federal share.

Title 11 of the Municipal Code provides some flexibility in calculating the cost share for property adjoining a project. In literal terms, the developer would be responsible for all of the items actually built along his frontage. Given the multiple funding sources for the project and the variation in improvements done at any given location, this approach is unnecessarily complex. The proposed ordinance takes a simplified approach and divides the City's share of the project cost among the City and the private properties which adjoin the project and assesses it based on the amount of property frontage along the project. This approach is fair and is recommended to equitably distribute project costs.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. \_\_\_\_\_

SERIES OF 1999

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE ESTABLISHING RECOVERABLE COSTS DUE THE CITY FOR THE WEST 101ST/100TH AVENUE EXTENSION PROJECT

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Improvements for the West 101st/100th Avenue Extension:

- A. Total Recoverable Cost shall be \$2,534,475 as shown on Exhibit A to this ordinance.
- B. The apportionment of responsibility for recoverable cost has been done in conformance with the provisions of Title 11 of the Westminster Municipal Code, and the properties benefited by the project are depicted on Exhibit B to this ordinance.
- C. The "Basis for Recoverable Costs" for eligible engineering and construction activities shall be \$150/linear feet abutting the project as calculated in Exhibit A.
- D. The "Basis for Recoverable Costs" for eligible right-of-way acquisition costs shall be determined individually for the properties from which right-of-way was acquired and shall be assessed as follows when and if the property develops/redevelops:
  - i. (City's share of right-of-way costs paid to owner **divided by** the total area of right-of-way acquired from Owner) **multiplied by** the Owner's area of responsibility.
  - ii. Owner's area of responsibility shall be the portion of the acquired right-of-way on which the street improvements defined in WMC 11-6-7(D)1.d(ii) were constructed.

Section 2. This ordinance shall take effect upon its passage after second reading.

Section 3. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11<sup>th</sup> day of January, 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of January, 1999.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999

**Subject:** Councillor's Bill No. re American Multi-Cinema Contract Review

**Prepared By:** Cherie Sanchez, Accountant

**Introduction**

City Council action is required on the attached Councillor's Bill amending the 1999 budget appropriation in the General Fund to add revenue to be received from the AMC for Promenade West maintenance service to be performed by the City.

**Summary**

The 1999 Budget in the General Fund needs to be amended to reflect common area maintenance revenue of \$148,000 anticipated to be received from American Multi-Cinema, Inc. in conjunction with the Westminster Promenade West maintenance agreement that City Council previously approved in October of 1998.

**Staff Recommendation**

Pass Councillor's Bill No. \_\_\_\_\_ on first reading providing for a supplementary appropriation to the 1999 General Fund budget involving maintenance service payments from American Multi-Cinema Inc.

**Background Information**

On October 12, 1998, City Council authorized a two-year automatically renewable maintenance agreement between the City and American Multi-Cinema, Inc./Westminster Promenade (AMC) and approved an operating budget of \$157,500 to fund the maintenance at the AMC Promenade West project as provided for in the agreement. The majority of the Promenade maintenance agreement operating budget is to be funded through billings to AMC for common area maintenance. The balance of the operating budget will come from City funds. The 1999 General Fund budget needs to be amended to reflect \$148,000 in common area maintenance revenues anticipated to be received.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment





BY AUTHORITY

ORDINANCE NO.

COUNCILOR'S BILL NO. \_\_\_\_\_

SERIES OF 1999

INTRODUCED BY COUNCILLORS  
\_\_\_\_\_

A BILL

FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL FUND.

THE CITY OF WESTMINSTER ORDAINS:

Section 1. The 1999 appropriation for the General Fund, initially appropriated by Ordinance No. 2654 in the amount of \$53,471,414 is hereby increased by \$148,000 which, when added to the fund balance as of the City Council action on January 25, 1999 will equal \$53,619,414. The actual amount in the General Fund on the date this ordinance becomes effective may vary from the amount set forth in this section due to intervening City Council actions. This increase is due to maintenance billing revenue to be received from American Multi-Cinema, Inc./Westminster Promenade per the AMC Promenade West Maintenance Agreement.

Section 2. The \$148,000 increase in the General Fund shall be allocated to City Revenue and Expense accounts, which shall be amended as follows:

Description	Current Budget	\$ Increase	Final Budget
<b>REVENUES</b>			
Common Area Maintenance Billings 10-1059-106	\$0.	<u>\$148,000.</u>	\$148,000.
Total Change to Revenues		<u>\$148,000.</u>	
<b>EXPENSES</b>			
Personnel Salaries 10-50-55-100-106	\$0.	\$76,000.	\$76,000.
Contractual Services 10-50-55-299-106	\$0.	<u>\$72,000.</u>	\$72,000.
Total Change to Expenditures		<u>\$148,000.</u>	

Section 3. – Severability. The provisions of this Ordinance shall be considered as severable. If any section, paragraph, clause, word, or any other part of this Ordinance shall for any reason be held to be invalid or unenforceable by a court of competent jurisdiction, such part shall be deemed as severed from this ordinance. The invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect the construction or enforceability of any of the remaining provisions, unless it is determined by a court of competent jurisdiction that a contrary result is necessary in order for this Ordinance to have any meaning whatsoever.

Section 4. This ordinance shall take effect upon its passage after the second reading.

Section 5. This ordinance shall be published in full within ten days after its enactment.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of January 1999.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_ day of January, 1999.

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999

**Subject:** 1999 Standley Lake Recreation Program

**Prepared by:** Richard Dahl, Park Services Manager  
Rod Larsen, Open Space Supervisor

### **Introduction**

City Council action is requested to adopt the recreational fee structure for boating and lake access permits at the Standley Lake Recreation Area for 1999.

### **Summary**

During 1998, Jefferson County Open Space (JCOS) and the Farmers Reservoir and Irrigation Company (FRICO) finalized several years of negotiations and reached an agreement in the purchase of the land and recreational rights surrounding Standley Lake. JCOS then deeded the property to the City of Westminster for the purpose of upgrading and maintaining Standley Lake as a regional park. JCOS also contributed \$2,463,733 to be used in the Phase I improvements which will include a boat ramp, campground, restroom facilities, fish cleaning station, access roads, and trail system.

The Intergovernmental Agreement (IGA) adopted by Northglenn, Thornton, and Westminster on November 28, 1994 allows for 600 permits to be issued for power boats. Fifty of these permits, evenly split between Northglenn and Thornton, will be sold to their residents at the resident rate.

Staff is proposing two alternatives for permit fees:

**Alternative 1** - Retain 1998 fees for 1999 with projected revenues of \$342,105. Although this figure is less than the approved 1999 budget of \$410,000, Staff can make adjustments in operating expenditures to stay within the projected revenues. Due to Phase I construction, which will occur in 1999, some services programmed in 1999 will not be needed until construction is complete later this year. Staff believes it is not appropriate to raise permit fees during the construction process when park users may experience some inconvenience with park facilities. As part of this alternative, Staff is also recommending a Boat Dealer permit classification of \$1,500 which allows approved dealers to demonstrate boats on Standley Lake within a structured format set by the Lake Operations Manager.

**Alternative 2** - Increase permit fees 24% to match the approved 1999 operating budget of \$410,000. This would increase the annual resident permit by \$119 to a total cost of \$614. Included in this alternative is the \$1,500 Boat Dealer classification described above. Staff does not recommend this alternative due to the construction of Phase I improvements, which may inconvenience some lake operations during the boating and camping season. It is also questionable if the public will purchase permits at this higher rate if there are not substantial improvements to the facilities at Standley Lake



	Alt. #1	Alt. #2
Resident Boat Permit	\$495	\$614
Non-resident Boat Permit	\$620	\$769
Sail/Fishing Permit	\$100	\$100
Lake Access	\$145	\$145
Walk-in Season	\$ 60	\$ 60
Special Use	\$ 3	\$ 3
Daily Boat	\$ 10	\$ 10
Senior Day Permit	\$ 5	\$ 5
Boat Dealer	\$1500	\$1500
Total estimated revenue	\$342,105	\$412.855

### **Staff Recommendation**

Adopt the 1999 Standley Lake Recreation Area fee structure as contained in Alternative 1.

### **Background Information**

Phase I construction of the Park Master Plan is scheduled to begin in late spring of 1999 with final completion due late 1999 or early 2000.. Environmental issues with the eagle habitat area, possible Preble's Meadow Jumping Mouse habitat sites and finalization of the Standley Lake Dam renovation project have caused some delay in starting the project.

The City of Westminster has leased Standley Lake from FRICO as a recreation facility since the mid-1960s. The Standley Lake Recreation Area provides a variety of recreation activities including powerboating, water skiing, sailing, camping, picnicking, fishing, hiking, bicycling, wildlife viewing, and nature study.

The Department of Parks, Recreation, and Libraries' primary concern in the operation of Standley Lake is to insure the safety and health of the visitors using the recreation area. Providing 24-hour security, staffing for 16 hours of day use, and contracting portable toilet facilities and trash collection represent 96% of the operating budget. The other 4% is used to purchase medical supplies, signage, and materials to maintain grounds and structures. Because Standley Lake is a 24-hour, 7 day-a-week program, the staffing and contractual service levels are necessary regardless of the number of people using the facility, which can vary depending on the time of day, weather conditions, and the month.

In 1985, the Department of Parks and Recreation issued 1,200 powerboat permits at Standley Lake. Since that time, water quality issues have prompted the City to re-evaluate the long-term impact which power boat uses have upon the water at Standley Lake.

Because of these concerns, City Council has reduced the number of boat permits available and has pursued a conservative approach when dealing with water quality. In 1992, a voluntary boat emissions inspection program was started with support from local boat dealers who provided the service at no charge to lake participants. This program became mandatory in 1993 and all power boats using Standley Lake must pass an emissions inspection before they are granted access to the lake. Water quality sampling from Standley Lake has indicated the 600 powerboat permit level of activity, along with the other protective measures regulating recreational activities, have been successful in preventing any water quality degradation. The number of permits will be reduced in future years in accordance with the 1994 IGA with the cities of Northglenn, Thornton and Westminster.

Respectfully submitted,

William M. Christopher  
City Manager

Attachment

**Alternative 1 (CURRENT)****Proposed**

Permit Category	1998 <u>USE</u>	1998 <u>FEES</u>	1999 <u>USE</u>	1999 <u>FEES</u>	INCREASE <u>OVER 1998</u>	PROJECTED <u>REVENUES</u>
RESIDENT FULL SEASON	321	\$495	550	\$495	\$0	\$272,250
NON-RESIDENT FULL SEASON	200	\$625	10	\$625	\$0	\$ 6,250
RESIDENT WEEKDAY	38	\$385	30	\$385	\$0	\$ 11,550
NON-RESIDENT WEEKDAY	41	\$460	10	\$460	\$0	<u>\$ 4,600</u>
						<b>\$294,650</b>
SAIL/FISHING BOAT	100	\$100	100	\$100	\$0	\$ 10,000
LAKE ACCESS	25	\$145	25	\$145	\$0	\$ 3,625
WALK-IN SEASON	3	\$ 60	3	\$ 60	\$0	\$ 180
SPECIAL USE	300	\$ 3	300	\$ 3	\$0	\$ 900
DAILY GATE REVENUES-CAR	13,000	\$2/per.	13,000	\$2/per.	\$0	\$ 26,000
DAILY GATE REVENUES-BOAT	600	\$5/boat	600	\$5/boat	\$0	\$ 3,000
SENIOR PASS RESIDENT	500	\$3/year	500	\$3/year	\$0	\$ 1,500
SENIOR PASS NON-RESIDENT	150	\$5/year	150	\$5/year	\$0	\$ 750
BOAT DEALER			1	\$1,500	\$0	<u>\$ 1,500</u>
						<b>\$ 47,455</b>
<b>GRAND TOTAL</b>						<b>\$ 342,105</b>

**Alternative2****Proposed**

Permit Category	1998 <u>USE</u>	1998 <u>FEES</u>	1999 <u>USE</u>	1999 <u>FEES</u>	INCREASE <u>OVER 1998</u>	PROJECTED <u>REVENUES</u>
RESIDENT FULL SEASON	550	\$495	550	\$614	\$0	\$337,700
NON-RESIDENT FULL SEASON	10	\$620	10	\$769	\$0	\$ 7,690
RESIDENT WEEKDAY	30	\$385	30	\$477	\$0	\$ 14,310
NON-RESIDENT WEEKDAY	10	\$460	10	\$570	\$0	<u>\$ 5,700</u>
						<b>\$365,400</b>
SAIL/FISHING BOAT	100	\$100	100	\$100	\$0	\$ 10,000
LAKE ACCESS	25	\$145	25	\$145	\$0	\$ 3,625
WALK-IN SEASON	3	\$ 60	3	\$ 60	\$0	\$ 180
SPECIAL USE	300	\$ 3	300	\$ 3	\$0	\$ 900
DAILY GATE REVENUES-CAR	13,000	\$2/per.	13,000	\$2/per.	\$0	\$ 26,000
DAILY GATE REVENUES-BOAT	600	\$5/boat	600	\$5/boat	\$0	\$ 3,000
SENIOR PASS RESIDENT	500	\$3/year	500	\$3/year	\$0	\$ 1,500
SENIOR PASS NON-RESIDENT	150	\$5/year	150	\$5/year	\$0	\$ 750
BOAT DEALER			1	\$1,500	\$0	<u>\$ 1,500</u>
						<b>\$ 47,455</b>
<b>GRAND TOTAL</b>						<b>\$ 412,855</b>

**Date:** January 11, 1999

**Subject:** Resolutions No. re JeffCo Open Space Grant

**Prepared by:** Philo Shelton, Park Project Engineer

### **Introduction**

City Council action is requested to adopt the attached Resolution to authorize the request for a \$2,000,000 Sports Field Development Grant from Jefferson County Open Space (JCOS) for City Park Phase III ballfield complex.

### **Summary**

Instead of a competitive grant process, JCOS is considering a Region Sports Program that will function as a collaborative agency planning effort between the major cities and park and recreation districts in Jefferson County. JCOS has proposed to set aside \$2 million per year over the next five years 1999 - 2003, (\$10 million total) for planning and development of regional sports facilities, ie. ballfields, soccer fields, tennis and basketball courts. City Park Phase III ballfields is one of the proposed projects for the Regional Sports Program with JCOS. Staff is requesting City Council to adopt the attached Resolution supporting Regional Sports Program grant application. JCOS requires formal action (adopted Resolution) by City Council before Regional Sports Program grant applications will be considered. Upon receiving this grant funding, Staff anticipates to hire a contractor to complete the final phase of this project upon City Council adopting the 2000 CIP budget in October of 1999.

In August of 1997, City Council directed staff to reduce the scope of City Park Phase III from a \$7.1 million to a \$5.1 million construction project cost. The two million dollars from JCOS would be used to bring the full scope of the project back. JCOS prefers a minimum of a 50-50 matching funds for this grant. City Park Phase III has \$1.3 million in its 1999 project account, has recommended to have \$1.1 million budgeted in 2000, and has planned to issue a \$1.0 million revenue bond based on a projected revenue from the softball field complex of \$125,000 per year. The cash match works out to be \$3.4 million to \$2.0 million (63-37) match. This would produce a \$5.4 million budget for the final phase of this project. Cost of the first phase of the project was approximately \$2.2 million to construct. The construction costs for the first phase and final phase including the JCOS grant totals to \$7.6 million for this project. The extra \$0.5 million is needed to cover the increased cost of construction based on construction cost increases of 5% per year over two years on the final phase of work that was estimated to cost \$4.9 million in August of 1997. Staff anticipates in the future to apply for additional funding for this project from GOCO to help fund a \$300,000 batting cage complex component to supplement this project.

### **Alternatives**

City Council could decline to apply for JCOS in funding in 1999 for Westminster City Park Phase III and wait to apply in 2000. However, since the first phase of the softball complex was just completed in 1998, the project is now ready to have the final phase completed. Also, given the fact that construction costs are increasing about 5% per year, delays to the final phase of the project would cost about \$250,000 per year in construction costs.

**Staff Recommendation**

Adopt Resolution No. \_\_\_\_\_ authorizing the submittal of a \$2,000,000 Regional Sports Program grant application to Jefferson County Open Space for the construction of the final phase of City Park Ballfields Phase III. Funding for these projects are available in both 1999 and 2000 CIP program.

**Background Information**

In 1994, the Jefferson County Board of County Commissioners agreed to enter into a partnership with the City of Westminster to master plan Standley Lake Regional Park and design City Park ballfield complex. The County allocated \$500,000 in 1995 to hire a landscape architect firm for both projects. DHM, Inc was selected as the most qualified firm for these projects and the County began negotiating a contract for their services. The total cost of the contract approved by the County Commissioners with DHM was \$687,500: \$280,000 for the City Park ballfields and \$407,500 for Standley Lake Regional Park.

On February 26, 1996, Staff presented the City Park Ballfield Complex master plan to City Council at a post Council meeting. The total cost of that plan was estimated to be \$6.7 million. Upon City Council's and Jefferson County Commissioners' approvals of this plan, City Council awarded a design contract to DHM to perform the additional services required by the scope of work. These design services were for the following amenities, in addition to the four softball fields and concession area, to the project: underground storage and maintenance facility, picnic shelters at each ballfield for shade, 104th Avenue access/Hyland Creek realignments, covered bleacher seating, over excavation of bedrock for ballfield drainage, expanded parking lot, and City Park entry monument on 104th Avenue to match the present entry to City Park. In finalizing the design of the City Park Ballfield master plan, the engineer's estimate for the project was \$6,990,000. This was \$290,000 over what was estimated to be the cost in February 1996.

In August 1997, City Council instructed City Staff to evaluate the scope of the project to accomplish the ballfields at a reduced cost in the \$4.0 million range. A majority of the City Council had expressed their desire to move forward on the Phase III project while also doing the City Park Fitness Center. Therefore, Staff prepared alternatives for City Council review. The first alternative presented to City Council's for consideration was to adjust the project scope and budget to \$4.1 million. The second alternative was to adjust the project scope and budget to \$5.1 million. The additional \$1.0 million increase over the \$4.1 million budget could be accomplished by issuing a \$1.0 million revenue bond, pledging surplus ballfield revenues from the adult softball leagues.

This surplus revenue is estimated to be \$125,000 per year once the new complex is opened and fully operational. Following is a breakdown of the \$5.1 million alternative selected by City Council.

**\$5.1 MILLION PLAN Alternative**

Phase I Deletion	
8" water line	\$56,000



Phase II Deletions	
Tennis, Volley, and Basketball courts	\$ 200,000
Concession Building	\$ 400,000
Entry Monumentation	\$ 225,000
Convert Maintenance Facility to at grade	\$ 195,000
Picnic shade structures at ballfields	\$ 248,000
Colored concrete in lieu of pavers	\$ 128,000
Perimeter walks and entry circles	\$ 95,000
Lightning Protection	\$ 20,000
Benches and Picnic Tables	\$ 15,000
Playground	\$ 30,000
Ballfield entry security gates	\$ 71,000
Reduce trees & shrubs by 50% and tree size	\$ 140,000
Reduce landscaping of east parking lot	\$ 54,000
Reduce landscaping of west parking lot	\$ 72,000

**TOTAL COST REDUCTIONS FOR \$5.1 MILLION PLAN \$1,952,000**

The City Park softball complex was divided into two phases of construction given the amount of earthwork and grading required for this project. Since almost 300,000 cubic yards of earth was required to be moved, completing the earthwork in a separate phase was necessary given the potential for settlement of the ground over the 45 acre site. The final phase of construction work will be completed 2 years later to allow time for the ground to settle.

Since funding was limited in 1997 for the first phase of this project, two of the bid alternatives were not selected. In December 1997, Staff applied for a \$100,000 Joint Venture grant sponsored by Jefferson County Open Space to construct the final two bid alternates. The City was awarded the grant in the amount of \$100,000 on January 22, 1998 for the construction of the final two bid alternates which are a 182 car west parking lot and imported topsoil for the softball fields. The total cost of these alternates was \$214,487. The total construction costs of the first phase of the project, including the base contract and the two bid alternates was \$2,232,604.

Westminster has greatly benefited from the JCOS Joint Venture development grant program. From 1992-1997, Westminster has received nearly \$1.7 million from Joint Venture grants for City Park Phase II Soccer Fields, Westminster Sports Center renovation, Westbrook Park, Countryside Little League Fields, Waverly Park, and Trailside Park renovation. Although most of the grant applications were 50:50 matching grants, Westminster has matched funds in excess of \$5.5 million with the \$1.7 million over the past five years for the development of the Joint Venture projects. In addition, Westminster has also benefited from JCOS for trail development along Big Dry creek as part of the Trails 2000 program, and Jefferson County’s financial contribution of more than \$550,000 for design and engineering costs for Standley Lake Regional Park and City Park Ballfields.

Respectfully submitted,

William M. Christopher, City Manager

Attachments: Resolution & Map

RESOLUTION

RESOLUTION NO. \_\_\_\_\_

INTRODUCED BY COUNCILLORS

SERIES OF 1999

\_\_\_\_\_

REGIONAL SPORTS PROGRAM GRANT REQUESTS WITH JEFFERSON  
COUNTY OPEN SPACE

WHEREAS, Jefferson County Open Space has established a Regional Sports Program grant application process to assist with development of regional sports facilities in Jefferson County; and

WHEREAS, the City of Westminster is desirous of constructing and completing the final phase of City Park Phase III Softball Complex; and

NOW, THEREFORE, the Westminster City Council hereby resolves that City of Westminster Staff submit a Regional Sports Program grant application to Jefferson County Open Space, requesting a \$2,000,000 grant having a 45/55 split, toward the cost of developing City Park Phase III softball complex in Jefferson County.

Passed and adopted this 11th day of January, 1999

ATTEST

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999

**Subject** Ketner Dam Outlet Pipe Reconstruction

**Prepared by:** Jerry Magnetti, Construction Supervisor  
Dan Strietelmeier, Senior Water Resources Engineer

### **Introduction**

City Council action is requested to authorize a contract in an amount not to exceed \$62,372 for renovation of the Ketner Reservoir Dam outlet pipe with Insituform Plains, Inc. Funds are available for this expenditure in the Open Space Maintenance Budget.

### **Summary**

The Colorado State Engineer's Office (SEO) is requiring repair of the Ketner Reservoir Dam outlet pipe. The outlet pipe has developed joint separation at two locations. Joint separation in the outlet pipe can impact the safety of the dam by allowing a pathway for water and embankment material to flow, which potentially could cause dam failure.

Ketner Reservoir is part of a Westminster Open Space Park heavily used by the residents in the Countryside area. Maintenance of the dam and monitoring of the instrumentation has been performed by Westminster Open Space with technical assistance from the City's Water Resources Division.

Woodward-Clyde Consultants (WCC) evaluated outlet pipe repair alternatives and recommended lining the outlet pipe with cured-in-place plastic pipe (CIPP). The CIPP technique will satisfy the SEO criteria for repair, will not require breaching the dam and lowering the reservoir during construction, is cost effective and reduces long term maintenance of the outlet works. The construction process will cause minimal impact to the open space park with only one day of mobilization anticipated.

The CIPP process has been used in over 40 million feet of pipelines throughout the United States. Insituform Plains Inc. has the most experience in installing CIPP of available vendors and until recently was the only vendor for CIPP in Colorado. Insituform Plains, Inc. was asked to submit a proposal for the Ketner outlet pipe repair as they had previously worked for the City installing CIPP in the sanitary sewer system.

The Insituform Plains Inc. CIPP process is a state-of-the-art, specialized technique now widely used in pipeline renovation.

### **Staff Recommendation**

Authorize the City Manager to sign a contract with Insituform Plains, Inc. for an amount not to exceed \$63,372 based on a finding that due to the specialized nature of this work, this contract will best serve the public interest. The expenditures to be charged to the 1999 Open Space Maintenance Budget.



## **Background Information**

Ketner Reservoir Dam is located at 100th Avenue and Countryside Drive in the Countryside Development. Ketner Reservoir Open Space Park includes trails and access for fishing. The Colorado Division of Wildlife stocks Ketner Reservoir with fish. The Dam does provide some stormwater detention but it is not used as part of the City's water supply.

The original outlet works consisted of about 147 feet of 12-inch diameter asphalt coated corrugated metal pipe (CMP) installed as part of a reservoir enlargement in 1961. The outlet pipe was extended about 120 feet in 1975. As part of dam modifications designed by WCC in 1986, a video inspection of the outlet pipe was performed. Water Resources Division Staff became involved in the maintenance of the dam due to Water Resources' experience in dam safety and their relationship with the State Engineer's Office.

After viewing the 1986 video, WCC concluded that the pipe showed some signs of deterioration but was not in immediate need of replacement. The 1986 dam modifications were approved by the SEO with the condition that the outlet pipe be videotaped every five years. Subsequent video inspections of the outlet pipe in 1996 indicated deterioration had occurred. The most serious deficiencies were two separated joints in a section of the CMP outlet pipe located within the dam embankment making access to the deteriorated section difficult.

As a result of the outlet pipe deficiencies, the SEO downgraded the condition of Ketner Dam to "Conditionally Satisfactory" and established a safe storage level contingent upon repair of the outlet works. In 1996, Westminster solicited proposals for evaluation of repair alternatives for the Ketner Dam outlet works. WCC was chosen to perform this evaluation and their recommendation involved the use of CIPP to reline the outlet pipe.

The CIPP process consists of inserting a resin-impregnated felt tube at the pipe outlet under hydrostatic head. The weight of the water inverts the tube into the existing pipe, turning it inside out. After the tube is inverted the specific length, the water the tube is circulated through a heat source. The hot water cures the resin, causing it to harden into a structurally independent, jointless pipe. The result is essentially, the placement of about 267 lineal feet of PVC pipe with a 50-year design life, inside of the existing outlet.

After several months of review, the CIPP repair process was approved by the SEO. Prior to submitting the design to the SEO, Insituform Plains Inc. was the only vendor for CIPP in Colorado. At least one other vendor now exists, so an alternative would be to solicit an additional proposal. Insituform Plains Inc. has, however, held their bid price firm in spite of delays and changing requirements from the SEO. In addition to solicitation of another bid proposal for relining, other pipe replacement alternatives could be explored but would require draining of the reservoir for excavation of embankment material.

Respectfully submitted,

William M. Christopher  
City Manager

**Date:** January 11, 1999

**Subject:** Councillor's Bill No. \_\_\_\_\_ re Approval of TCI/AT&T Merger

**Prepared by:** Gary Casner, Senior Telecommunications

**Introduction:**

City Council action is request to pass the attached Councillor's Bill on first reading approving the TCI/AT&T merger.

**Summary**

TCI has announced its intent to merge with AT&T. Provisions of the cable television franchise agreement currently issued to TCI by the City requires that City Council approve the merger.

Major conditions in the approval will require TCI and AT&T to

- Comply with existing franchise obligations

- Address any issues of default in the current franchise (to date there are none)

- Comply with any changes in federal law regarding classification of services and rates

- Maintain existing levels of technical and customer service employees

- Comply with the customer service standards adopted by all GMTC communities

- Conduct a legal audit within one year to insure that all conditions of the franchise agreement are being complied with and are still in accordance with federal law.

Alternative: Deny approval of the transfer of ownership. Federal law governs the reasons for denial. As AT&T meets all the conditions for approval, the City would not be acting lawfully in denying approval.

**Staff Recommendation**

Pass Councillor's Bill No. \_\_\_\_\_ on first reading approving the merger of TCI/AT&T.

**Background Information**

As many of the members of Council are aware, TCI has announced its intent to merge with AT&T. The City of Westminster, due to provisions in the Cable TV Franchise Agreement, is one of about one thousand communities throughout the country that must approve this merger.

The merger will create a change in the control of the cable operator. The City's current franchise agreement is with Mountain States Video, a subsidiary of TCI. While there is a very elaborate corporate structure being put in place, in its simplest terms, the proposed transaction will have TCI become a subsidiary of AT&T. Mountain States Video will remain the cable operator, but the ultimate parent company will be AT&T.

In considering whether to approve the transfer, federal law allows the City to consider whether AT&T has the technical, legal, and financial ability to comply with the obligations of the existing franchise. This is not a time to renegotiate the franchise. TCI's position is that there should be no concern with the technical, legal, or financial ability to comply with the franchise agreement since the actual holder of the franchise will not change.

However, it is also true that after the merger, AT&T will have the ultimate legal authority to determine the management structure and operational structure of all TCI subsidiaries. A company with AT&T's legal and financial resources should have no problem complying with the franchise obligations. Since AT&T has never been in the cable business however, a condition has been included in the transfer approval that requires a commitment to technical staffing levels similar to those that currently exist with TCI.

The merger of a cable company and a telecommunications company presents some new challenges, particularly in Colorado. Cable services and other types of telecommunication services are governed by different parts of the Federal Communications Act, and, under Colorado Senate Bill 96-10, local governments are prohibited from requiring franchises for collecting franchise fees from telecommunication companies but not from cable companies. The federal law determines whether a service is a cable service or a telecommunications service. As a multitude of services can now be provided over the same infrastructure the distinction between what is a cable service and what is a telecommunications service is becoming blurred.

A final "sorting out" will come from the Federal Communications Commission (FCC), the courts, or Congress. The City's approval of the merger will contain language that defers to whatever federal law finally dictates in the distinction of these services.

Another issue that is under consideration involves reducing the possibility of "cross subsidization." The possibility exists for a merged entity to raise cable rates to help subsidize below market rates for telephone and other telecommunications services. While this is an important issue, there is not a lot of authority for City action in connection with this transfer.

There are legal arguments on both sides of the issue as to whether cities can condition transfers on a promise of no cross subsidization. This issue also will be addressed by the FCC or Congress. For purposes of this approval, the Ordinance contains language that commits AT&T to prices consistent with whatever federal laws and regulations apply

Respectfully submitted,

William M. Christopher  
City Manager  
Attachment

BY AUTHORITY

ORDINANCE NO.

COUNCILLOR'S BILL NO. -----

SERIES OF 1999

INTRODUCED BY COUNCILLORS

-----

A BILL

FOR AN ORDINANCE CONSENTING TO THE TRANSFER OF THE CITY'S CABLE TELEVISION SYSTEM FRANCHISE TO AT&T CORPORATION.

THE CITY OF WESTMINSTER ORDAINS:

Section 1

WHEREAS, on September 11, 1995, the City of Westminster, Colorado (the "City") granted to Mountain States Video ("Franchisee"), a franchise to own and operate a cable television, system in the City, and entered into a Franchise Agreement pursuant to Ordinance; and

WHEREAS, Franchisee is a subsidiary of, and controlled by Tele-Communications, Inc., a Delaware corporation ("TCI"); and

WHEREAS, the Franchise requires the City's consent to any transfer of ownership or control thereof, and City Charter requires that any amendment to a franchise be accomplished by ordinance; and

WHEREAS, TCI has entered into an Agreement and Plan of Restructuring and Merger (the "Merger Agreement") with AT&T Corp., a New York corporation ("AT&T"), and Italy Merger Corp., a Delaware corporation ("Italy") and a direct wholly owned subsidiary of AT&T, for the purposes of the merger of Italy with and into TCI; and

WHEREAS, this merger will effect a change of control of TCI and Franchisee pursuant to the Franchise; and

WHEREAS, pursuant to Section 17.2 of the Franchise, and 47 U.S.C. 537 as amended, TCI and AT&T have requested that the City approve the transfer of control of the Franchisee from TCI to AT&T; and

WHEREAS, the City has investigated both the status of th Franchise, the Franchisee's compliance therewith, and the technical, legal, and financial ability of AT&T to control the Franchisee's compliance with the Franchise; and

WHEREAS, based upon the City's investigation and representations made to the City by TCI and AT&T, upon which the City is relying, the City is prepared to approve the transfer of control of the Franchisee from TCI to AT&T, pursuant to the conditions described herein.

Section 2

1. The City hereby consents to and approves the transfer of control of the Franchise from TCI to AT&T.

2. The City confirms that the Franchise is currently in full force and effect and expires on October 11, 2010.

3. This Ordinance approving the transfer of control is based in part upon the following representations and acknowledgments made by Franchisee, TCI, and AT&T to the City, all of which are considered material and have been relied upon by the City:



- (a) That the Merger Agreement, and all of the attachments to that document, provided to the City with FCC Form 394 (except for those materials which have been redacted pursuant to law, and are identified by title or topic in the Merger Agreement and its attachments) constitutes the entire agreement regarding the merger between TCI, Italy, and AT&T;
- (b) That additional services provided over the cable system to subscribers in the Franchise area, presently and during the term of the Franchise and any extensions thereof, shall, to the extent permitted by federal law, be considered cable services. By way of example, and not by limitations, TCI's @Home content-enriched cable internet access service, currently is considered a cable service pursuant to Title VI of the Communications Act of 1934, as amended by the Telecommunications Act of 1996, and is not a telecommunications service;
- (c) That Franchisee shall comply with all lawful requirements with respect to nondiscriminatory access to the Franchisee's cable modem platform for providers of internet and on-line services;
- (d) That all customer service standards adopted by the Greater Metro Telecommunications Consortium remain in full force and effect, and Franchisee will maintain staffing levels necessary to meet those standards, and all federal regulations regarding technical standards of cable systems;
- (e) That no future intra-corporate transfers, mergers, or other changes of ownership or control, affecting Franchisee, will change the obligations or liability of Franchisee to the City with respect to any of the terms, conditions, and obligations of the Franchise, unless prior approval is granted by the City in writing;
- (f) That if Franchisee receives a written request from the City by June 30, 1999, that on or before December 31, 1999, Franchisee, TCI and/or AT&T shall, at its sole expense, conclude a review of the Franchise, and shall advise the City in writing of any provision of the Franchise which it believes is no longer applicable due to a change in existing law, or for any other reason. This review will be conducted in good faith by Franchisee, TCI and/or AT&T, but by doing so, Franchisee, TCI and/or AT&T do not waive the right to challenge in the future any provision in the Franchise as no longer applicable under existing law, regardless of whether such provision was noted in the review. That this review will be undertaken does not require the City's agreement with any options or conclusions it may receive from Franchisee, TCI, or AT&T. Any disagreements between the parties will be addressed as the parties see fit at that time.
- (g) That Franchisee, TCI and/or AT&T will comply with all applicable laws regarding rates for cable services within the Franchise area and all applicable laws covering issues of cross subsidization
- (h) That in the event of any failure to comply with these representations and/or acknowledgments, or any misrepresentations concerning the same, the City may enforce any penalty provisions pursuant to the Franchise and exercise any other remedy available to it by law.

4. By passage of this Ordinance, the City makes no representations concerning whether any violations or non-compliance issues exist with respect to the Franchise. Nothing in this Ordinance shall be construed by the Franchisee, TCI, or AT&T as precluding the City from addressing any prior acts of noncompliance by Franchisee, pursuant to the terms of the Franchise.

5. This approval is conditioned upon approval of the transaction between TCI, AT&T, and Italy, by their respective shareholders, and all required federal government agencies, in substantially the same

form as the transaction described in the Merger Agreement, and related documents delivered to the City with TCI's form 394 filing, and in documents delivered in response to the City's requests for supplemental information. Should the transaction as approved by the shareholders and federal government agencies differ in any material respect from that represented in the documents described herein, this approval shall be voidable, at the sole option of the City. Within thirty (30) days following the closing of the Merger Agreement, Franchisee shall file with the City a statement that the above conditions have been met.

Section 3. This ordinance shall take effect upon its passage after second reading.

Section 4. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 11th day of January, 1999

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_\_\_ day of January, 1999

ATTEST:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**Date:** January 11, 1999  
**Subject:** Bond Counsel Fees for Selected Projects  
**Prepared by:** Mary Ann W. Parrot, Finance Director

### **Introduction**

City Council is requested to approve legal fees for Sherman & Howard, Bond Counsel and Special City Counsel, pertaining to the following items:

\$11,990.63 for work on the Inland Pacific guaranty, associated with the City of Westminster Conference Center.

\$2,335.00 for tax advice on arbitrage rebate on selected bond issues from past years.

Funds for this expense are available in the appropriate budget accounts.

### **Summary**

During 1998, Sherman & Howard, acting as Special Counsel and Bond Counsel for the City, was involved in structuring several unique bond issues for the City. The nature of the bond issues was unique because the City has taken a pro-active approach to partnering with private industry to achieve highly successful projects for the City. One of these projects was the Westin Hotel and Conference Center. Mr. Dee Wisor of Sherman & Howard had involvement in these negotiations. It was necessary to engage his services in drafting the guaranty of the Inland Pacific Business Assistance Package, which was one of numerous documents to be included in the Westin Hotel/Conference Center financing. This financing was an extremely complicated package assembled by the City's partner, Inland Pacific of Colorado, LLC.

In addition to the above, during 1998, the City launched a project to bring its program of tracking arbitrage earnings into compliance with IRS regulations promulgated over the years. It was necessary to engage tax counsel services from Sherman & Howard to answer several tax questions specific to the IRS regulations on arbitrage earnings. Mr. Jim Lane, of Sherman & Howard, is a well-known tax attorney with the firm, and is familiar with the City's bond issues, having been involved with tax opinions on the City's issues over the years.

### **Staff Recommendation**

Authorize the payment of fees to Sherman & Howard as Bond Counsel and Special Counsel to the City as follows: \$11,990.63, for work on the Inland Pacific Guaranty, to be charged to Central Charges, Legal Fees; and \$2,335.00 for tax work on arbitrage earnings, to be charged to Finance Administration, Professional Services.



### **Background Information**

The Inland Pacific guaranty was one of approximately seventy-five (75) documents assembled by the attorneys and advisors to Inland Pacific of Colorado, LLC (IPC), used to secure the financing to build the Westin Hotel and Conference Center. The City negotiated a business assistance package with Inland Pacific, subject to annual appropriation. IPC needed to have the City guarantee the Business Assistance Package, as they used it to collateralize their construction financing. Staff evaluated three alternatives for the guaranty, among them the purchase of a letter of credit to “stand by” the business assistance package, purchase of an insurance policy to guarantee the business assistance package and guarantee by the Utility Fund. Mr. Wisor advised the City on the legality of the alternatives, and subsequently drafted the guaranty for the City, as he has experience with these types of documents.

Also, during calendar year 1998, Staff implemented a program to calculate and track arbitrage earnings on twelve bond issues, including past bond issues dating from the 1980’s. In order to track all bond issues, it was necessary to “unwind” the bona fide Debt Service Fund into the component parts for each bond issues. For this work, Staff deemed it necessary to consult with Sherman & Howard regarding how tax law applied to this “unwinding”. Mr. Jim Lane, of Sherman & Howard, provided advise to Staff explaining what was needed so Staff could then complete their work.

An alternative to approval of these fees is to decline these fees; this is not recommended, as the work has been done as needed at the time. Staff is recommending these fees be paid; in addition, monies had been budgeted at the beginning of the year for these situations, including funds for legal services outside the City and funds for arbitrage consulting services.

Respectfully submitted,

William M. Christopher  
City Manager

## Summary of Proceedings

Summary of Proceedings of the regular City Council meeting held Monday, January 11, 1999.

Present at roll call were Mayor Heil, Mayor Pro Tem Merkel and Councillors Atchison, Dixon, Scott and Smith. Absent was Councillor Allen.

The minutes of the meeting of December 21, 1998 were approved with no additions or corrections.

The Mayor accepted a plaque commemorating Burns & McDonnell's 100 years of operation, and presented Certificates of Appreciation to outgoing Boards and Commissions members in recognition of their dedicated service to the City.

At 7:55 P.M. a public hearing was held on proposed Comprehensive Land Use Plan amendments.

Council approved the following: Legacy Ridge Restaurant Lease Agreement amendment; Bond Counsel fees for selected projects; 1999 Standley Lake Recreation Program fees and Ketner Dam Outlet Pipe reconstruction. Council Tabled an Intergovernmental Agreement with the City of Arvada until January 25, 1999.

The following Councillor's Bills were introduced and passed on first reading:

**A BILL FOR AN ORDINANCE REPEALING THE REQUIREMENT FOR DOG LICENSES AND REQUIRING NEUTERING/SPAYING FOR ANIMALS FOUND TO BE RUNNING AT LARGE OR VICIOUS ANIMALS.** Purpose: Increase fines for unneutered domestic animals and repeal mandatory licensing of dogs.

**A BILL FOR AN ORDINANCE AMENDING THE WESTMINSTER COMPREHENSIVE LAND USE PLAN.** Purpose: Update the Comprehensive Land Use Plan reflecting open space purchases and minor revisions.

**A BILL FOR AN ORDINANCE ESTABLISHING RECOVERABLE COSTS DUE TO THE CITY FOR THE WEST 101<sup>ST</sup>/100<sup>TH</sup> AVENUE EXTENSION PROJECT.** Purpose: Establish cost recovery assessment to properties adjoining Church Ranch Boulevard.

**A BILL FOR AN ORDINANCE AUTHORIZING A SUPPLEMENTAL APPROPRIATION TO INCREASE THE 1999 BUDGET OF THE GENERAL FUND.** Purpose: Add revenue to be received from the AMC for Promenade West maintenance.

**A BILL FOR AN ORDINANCE CONSENTING TO THE TRANSFER OF THE CITY'S CABLE TELEVISION SYSTEM FRANCHISE TO AT&T CORPORATION.** Purpose: Approve the merger of TCI and AT&T.

The following Councillor's Bill was passed and adopted on second reading:

**A BILL FOR AN ORDINANCE APPROPRIATING THE 1998 BUDGET OF THE COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) FUND AND AUTHORIZING AN APPROPRIATION FROM THE ESTIMATED REVENUES IN THE FUND.**

The following Resolution was adopted:

Resolution No. 1 – Jefferson County Open Space Grant request for City Park Phase III ballfield complex.

At 8:35 P.M. the meeting was adjourned.

By order of the Westminster City Council  
Michele Kelley, CMC, City Clerk  
Published in the Westminster Window January 21, 1999.